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Submission on:

The Human Rights Situation in Indonesia.

**HUMAN RIGHTS OF INDIGENOUS PEOPLES AND RELIGIOUS MINORITY
GROUPS IN INDONESIA.**

Submitted by

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(NGO in Consultative Status with ECOSOC)

Introduction.

In the last decade Indonesia has succeeded in reforming its approach to the protection and promotion of human rights. It has done this by institutional and legal means: it has amended the constitution (UUD 1945), through the establishment of Constitutional Court, the enacting of a number of laws relating to human rights and building various human rights institutions. These are progressive efforts and critical steps taken by the Indonesian Government in its effort to protect, promote, and monitor human rights work. (1)

However, the constitutional amendment, the enacting of a large number of laws and the presence of human rights' institutions, have not been able to prevent or reduce human rights violations over the last four years, since the review of the Republic of Indonesia during the first session of the Universal Periodic Review at the UN Human Rights Council. Many have expressed deep concerns about the situation of human rights in Indonesia.(2) Torture and killings, conflicts and the cycle of violence in West Papua occur periodically. Threats, intimidation and restrictions on religious freedom continue against minority religious groups, such as Ahmadias and Christians. The detention and capture of people during peaceful protests and the restriction of freedom of expression continue to happen.

This report focuses on some crucial issues connected to human rights violations. There is also a lack of information about their rights on the part of some ethnic and religious minority groups in Indonesia: In addition to issues mentioned above, violence and discrimination against women continues to be prevalent.

International Human Rights obligations.

The Universal Declaration of Human Rights. (UDHR)

International Covenant on Economic, Social and Cultural Rights. (ICESCR)

International Covenant on Civil and Political Rights. (ICCPR)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (CAT)

Convention on the Elimination of All Forms of Discrimination against Women. (CEDAW)

International Convention on the Elimination of All Forms of Racial Discrimination. (ICERD)

1. Torture, ill-treatments and extrajudicial killings

Indonesia signed the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in October 1985 and ratified it on 28th October 1998 by means of Law No. 5/1998. Still, torture, ill-treatments and extrajudicial killings are ongoing and continue to occur in recent years. According to our information there are many examples of serious human rights abuses committed by officers of the State.

- a) On October 17th, 2010 a video footage showed the ill-treatment and torture of two indigenous Papuans committed by the Indonesian military (TNI- Indonesian National Army).The video was recorded in the Tingginambut area in West Papua. The first incident shows uniformed members of the Indonesian army ill-treating indigenous Papuans. The second incident also reportedly involved members of the army committing grave abuses.
- b) On March 13th 2011, members of (TNI) took Charles Mali and his brother to the Tobir Army Post of the 744th Infantry in Atambua, East Nusa Tenggara (NTT). At the post, members of the 744th Infantry tortured them, resulting in the death of Charles Mali.

2. Discrimination and restriction of religious.

Restriction to religious freedom and discrimination against religious minority groups has often occurred at various districts in Indonesia from 2009 to 2011. According to our sources, the cases of religious freedom abuses against the communities of Ahmadis and Christens have increased by 45% in 2010. Thirty five recorded cases took place at 11 districts in 2009 while 64 cases occurred at 13 districts in 2010.

It is also reported that during the same period the acts of discrimination against particular religious groups increased by 31%, where 91 cases happened at 11 districts in 2009 and 135 cases took place at 13 districts in 2010. This data is supported by the Moderate Muslim Society (MMS). It reports that in 2010 at least 81 cases of abuses against religious freedom took place. Twenty four of these instances were attacks against religious minority groups and rejection of license applications to build houses of worship.

We recognise that the pattern of violence and discrimination against religious minority groups has shifted from attacks on properties to physical aggression against persons of certain religion followers. The case of Ciketing in Bekasi, West Java is an example of this shift in the pattern of violence. The mass of aggressors not only banned the HKBP Christian Church at Ciketing for worshipping, they also

attacked the worshipers in August 2010. In September 2010 a council member of HKBP Christian Church, was stabbed and an HKBP Pastor was tortured. In this case the District Government didn't protect sufficiently the victims and the Christian Church community of HKBP which belong to a religious minority group in Indonesia. In other words, the security institutions of the state failed to protect its citizens.

Meanwhile, the discrimination and religious persecution against the Ahmadiyya community is continuing. The religious persecution were committed both by civic citizens and central and local government who plays a key role through a policy of Joint Decree of 3 Ministers (SKB 3 Menteri) (3) and District regulations that ban Ahmadiyyas from openly practicing their own faith. This would have a negative impact on the Ahmadiyya community. As a result, violence and persecution against Ahmadiyyas significantly increased.

Besides religious persecution, prohibition on the building of houses of worship and the rejection of applications for the building of houses of worship, churches in particular are another great concern for many people in Indonesia. Christianity Communication Forum of Jakarta (Forum Komunikasi Kristiani Jakarta or FKKJ) reports that between 2008 and 2011 there are 131 instances of threats and intimidation against churches in Indonesia. The threat appears in many forms just as physical attack, burning, intimidation, call off of license of building construction, sealing of church buildings and prohibition of practicing religious worship at some places.

3. Violence and Violations of the Rights of the Indigenous Peoples.

Indonesian Papua is definitely still a center of conflict and violence. It is a place where the killings of indigenous Papuans still occurs regularly till today. According to our sources violence increased 70% in West Papua and most of these tragic events were carried out by police officers and Indonesian military. It is reported that because of the rampant violence and no protection provided by police, about 5,000 indigenous Papuans left their villages and fled to the forests until many died due to of illness and lack of food

On December 29, 2010, a number of NGOs and groups of civil society organization based in West Papua and in Jakarta issued an open letter(4) sent to President Susilo Bambang Yudhoyono in which they expressed deep concerns about the violations of human rights in Papua mainly perpetrated by Indonesian military and other nonmilitary personnel. Civil, social, economic and cultural rights of the indigenous Papua have been continuously violated.

Regarding the failure of Indonesian government to protect the political rights of the indigenous Papuans, the following seven tragic events are sufficient as samples: 1) The violence at Tinggi Nambut in Papua which was recorded by a video, 2) the violence that has befallen people at Bolakme, 3) the ethnic conflict between the people of the highlands and the people of Yoka, 4) the killing of civilians at the village of Nafri perpetrated by Indonesian military, 5) the killing of prisoners at Tanah Hitam, 6) the killing of civilians at the village of Boroway, 7) the rejection of Special Autonomy as requested by various groups of Indigenous Papuans.

Regarding the failure of Indonesian government to protect the economic, social and cultural rights of the indigenous Papuans, the following two can be mentioned as samples: 1) The case of MIFEE in Merauke, the case of Dagewo at Paniai and 2) the taking away by force of the communal land from the hands of the people of Lereh for palm oil plantations, the thorny problem regarding Freeport Foreign Company destroying the Land of Papua and its people, and the rampant illegal logging that still occurs almost throughout land of Papua. (5)

There was a riot at the end of the Third People Congress of Papua held on October 17, 2011, in which Indonesian security forces (military and police) intervened and made a repressive action against the participants of the congress that had taken place in a democratic and peaceful manner. As a result of this riot, on October 22, 2011, a number of people died, many suffered from bad wounds because of gunshot, 17 people were missing, 300 people suffered because of beatings. They were beaten with guns, kicked, terrorized and intimidated. Several people were arrested and detained at Polda Papua (Police District Centre) blamed as separatists.

There has been tremendous suffering because of continuing violence and killings against people of Papua at various places in West Papua. Women and children have also been the target of such violence. The coordinator of the Task Forces of the National Commission for Women in Papua expressed a deep concern regarding the suffering of women and children in Papua:

We, the women of Papua, have been bruised, trapped and besieged from all directions. We do not feel safe both where we are homes and even more when we are outside our homes. The burden that we bear to feed our children is tremendously heavy. History of the Papuans' people was and is still replete with the taints of bloods. With no exception, women have also been the victims of violent acts of the military. We were raped and sexually abused in custody, in the open place of meadows, in the refugee camps, in the river, at our villages, and everywhere when the Indonesian military (soldiers and police) carry out

their duty. At our homes are the victims of violence from the members of our own families- our husbands. When we women call for help, police officers simply say, "It's a family affair, solve family problem in the family! In addition, the HIVD/AIDs is destroying us. When will this suffering and misery come to an end? (6)

In addition, in the last 10 years social, economic and cultural rights (ECOSOC Rights) of the poor villagers in eastern Indonesia have been systematically violated. The small populated islands such as Flores, Timor, Lembata and Sumba have been mined by force by local government of Indonesia in conjunction with multinational corporations. People have been intimidated and forced to give up their fertile lands for mining without any indemnities. In many cases the local government of Indonesia issued mining license for transnational corporations on the private properties of the villagers without their knowledge and consent. The leaders of these poor villagers were brought to court because they defended their communal land having previously sold clandestinely by government(7) to foreign investors. As a result, thousands of villagers have been living in fear and frustration due to the loss of their farms and the somber future of the generations to come. Their wells and springs have dried up. Their creeks, drinking water and air have been badly polluted. Their crops have failed drastically almost to zero level. (8)

4. Violence and discrimination against women

Violence against women in Indonesia occurs both in the family and in public social life. According to the reports of the National Commission of Human Rights for Women conducted in Papua, that is, "in Manokwari, Sorong, Biak, Nabire, Jayapura (districts/cities), Sarmi, Keerom, Mimika, Puncak Jaya, Yahukimo, Wamena, Merauke, Mappi, and Digoel, 35 women died because of violence perpetrated by police, 114 women who because of violence were victims of domestic violence and 13 women died because of other forms of violence in society." (9)

There are various kinds of violence against women that are directly conducted or supported by military apparatus. At other occasions, there are other forms of violence against women that conducted by perpetrators other than military, yet it seems the military and police just let the crimes happen and do nothing. (10) The best example for this is the violence against the Papuan women conducted by militias or security guards at foreign companies. As the heinous crimes take place, the state police will simply watch and be indifferent like nothing is going on.

The violence carried out by military on behalf of the Indonesian State occurs within the context that is called Territorial Military Operation (Wilayah Operasi Militer or DOM), at camps for internally displaced people, at the border between Indonesian Papua and Papua New Guinea and at the area of natural resource exploitation. Reportedly, common types of violence committed by Indonesian military and police include rapes, sexual slavery, human trafficking for sexual exploitation and sexual abuse, forced family planning, murder, torture, arson and destruction of private property, arbitrary detention, the stealing of their communal and private lands, terror and many kinds of intimidation.

Meanwhile, domestic violence against women is mostly perpetrated by men. The form of violence happens because of the unjust and inappropriate use of welfare money that is distributed by the Indonesian government. The male spouses very often use this welfare money to buy alcoholic drink or to buy prostitution services. With the increasing spread of HIIV/AIDs throughout the land of Papua many women feel threatened.

We are concerned also for Indonesian women working abroad such as in Malaysia and in the Arabic countries where they have experienced terrible violence. Their suffering is beyond our capability to understand. They were raped. They went through physical tortured by their employer. Their breasts were ironed or lit with cigarette fire or doused with hot water. Some faced the death penalty for making a small mistake. They worked abroad without mastering the language of the host counties. Again, their horrible suffering is a vivid sign of Indonesian government's failure to protect and defend the rights of its women citizens.

Another common violence against women in Indonesia is the discriminatory law and District Regulations (Perda or *Peraturan Daerah*) issued by the local governments of Indonesia. National Human Right Commission for Women reported that there 154 discriminatory laws, 64 of whom are directly discriminative against women. For example, 21 district regulations restrict women to express themselves in the matter of how women have to dress in public area. According to our sources, there are 37 regulations which aim to combat prostitution. (11)

Various district regulations are discriminative and are still far from being gender-oriented.

Recommendation:

1. We urge the Indonesian government in Jakarta to engage in an open and honest dialogue with all indigenous peoples in Papua to address human rights violations and that this dialogue be facilitated by an independent third party.

2. That the Indonesian central governments revoke SKB 3 regulation, the bill of Kerukunan Agama (Regulations on Religious Harmony) and all other discriminatory District Regulations (Perda-perda).
3. That the district and central Indonesian governments immediately revoke the district regulations that discriminate against women and improve educational skills of Indonesian migrant workers by providing a certification for all Indonesian Workers (TKI) to international standards.
4. To invite the UN Special Rapporteur on violence against women, its causes and consequences to visit and assess the situation in Papua.
5. That all Indonesian security forces personnel (TNI and Police Officers) be trained to treat everyone with respect and that they receive sufficient education in ethics and basic human rights concepts, conventions and best practice relevant to their work.
6. We call on the Indonesian government to seriously consider ecology as an integral part of all development policies and respect the civil rights of its people over their lands throughout Indonesia including the small populated islands of Flores, Sumba, Lembata and Timor, East Nusa Tenggara Province.

Notes.

1. The National report of Indonesia submitted by HRC Working group on the Universal Periodic Review first Session, Geneva, 7-18 April 2008, p. 3-6.
2. AHRC, *the state of human rights in Indonesia in 2009*, p. 2-20.
3. On June 9, 2008 A Joint Decree of the Minister of Religious Affairs, the Attorney General and The Minister of the Interior of the Republic of Indonesia No. 3/2008, No. KEP033/JA/6/2008, No. 199/2008 was issued to warn and order to the followers, members, and/or leading members of the Indonesian Ahamdiyya Jama'at (JAI) and to the General Public. <http://www.thepersecution.org/world/indonesia/docs/skb.html>
4. <http://lenteradiatasbukit.blogspot.com/2011/01/satu-tahun-penegakan-ham-di-tanah-papua.html>
5. <http://lenteradiatasbukit.blogspot.com/2011/01/satu-tahun-penegakan-ham-di-tanah-papua.html>
6. <http://www.komnasperempuan.or.id/2010/10/stop-sudah-pendokumentasian-kekerasan-dan-pelanggaran-ham-terhadap-perempuan-papua/>
7. In fact, there is no law in Indonesia which empowers the government to sell the private land of its citizens to any entity including to foreign investors. Therefore what has been done by the local governments in Indonesian is a serious crime against humanity, against the poor, against democracy, against its Philosophy of *Pancasila*.
8. Jebadu Alex et.al., *Pertambangan di Flores-Lembata: Berkah atau Kutuk (Mining Industry in Flores-Lembata: Is It a Blessing or a Curse?)*, Penerbit Ledalero, Maumere-Indonesia, 2009
9. <http://www.komnasperempuan.or.id/2010/10/stop-sudah-pendokumentasian-kekerasan-dan-pelanggaran-ham-terhadap-perempuan-papua/>
10. <http://www.komnasperempuan.or.id/2010/10/stop-sudah-pendokumentasian-kekerasan-dan-pelanggaran-ham-terhadap-perempuan-papua/>
11. *Stop sudah! Kesaksian Perempuan Papua korban kekerasan dan pelanggaran HAM 1963 – 2009. Hasil Pendokumentasian Bersama kelompok Kerja Pendokumentasian kekerasan & Pelanggaran Ham*

Perempuan Papua 2009 - 2010 (Stop already! The Witnesses of Papuan Women's Victim of violation and Abuses against human rights 1963 – 2009. The Result of Joint documentation of documenting working group on violation and abuses against human rights of Papua women 2009 – 2010)

a) Cases of violence committed by Stated, 1963–2009: 138 casus (charge 2.1, page 79–83)

- Period of 1963 – 1998: 81 cases
- Period of 1999 – 2009: 57 cases

b) Cases of domestic violence (charge 2.2, page 83 -86)

- Period of 1963 – 2009: 98 cases

c) Cases of multiple violence (State – Domestic violence, charge 2.3 – page 86 -87)

- Period of 1963 – 2009: 14 cases

d) cases of violence in the public area (charge 2.4, page 88)

- Period of 1963 – 2009: 11 cases