

23 November 2015

Mr President of the Human Rights Council

Mr Chairperson of this Forum

Special Rapporteur Ms Rita Iszak

1. I would like to thank the organisers of this Eight Session of the Forum on Minority Issues for inviting me to address this session.
2. As Director of Legal Advocacy for the Bertha Foundation, I have a unique, global and comparative perspective of the treatment of minorities through the work of our Bertha Justice Initiative partner organisations, who are at the cutting edge of human rights litigation and advocacy on behalf of minority communities around the world. For more than a decade I have worked on issues associated with the persecution of indigenous West Papuans in Indonesia.
3. In this context, I have seen that the treatment of West Papuans is emblematic of the discrimination suffered by minorities worldwide – and among the most severe I have seen. The recommendations must ultimately be judged by their ability to address the most isolated and difficult of situations, so I address the draft recommendations on minorities and the exercise of police powers in relation to West Papua.
4. At the heart of violations suffered by minorities – in West Papua and elsewhere – is racism, dehumanization and discrimination. In West Papua, this aspect of Indonesian oppression has been emphasised by Filep Karma, the Nobel peace prize nominee who was finally released late last week after spending more than a decade in prison for raising a flag. Karma's book *Seakan Kitorang Setengah Binatang* (As If We Are Half Animal) (2014), explains that racism is key to understanding both West Papua's annexation by Indonesia and the ongoing abuse today. The fact the 1969 UN-supervised vote on self-determination was allowed to proceed with only 1,025 representatives out of the population of 800,000 was a decision grounded in racial discrimination: West Papuans were considered too "primitive" to have the popular vote that they were entitled to under international law. The UN turned a blind eye to these unlawful voting methods and violence in the self-determination process. It was not a free or fair vote. This grave injustice meant that Papuans became a minority within Indonesia, instead of establishing their own independent state. While Papuans made up 96.09% of the population in the region at that time, sustained violence and deliberate

assimilation policies, mean they are now a minority in their own land: representing only 42% of the population, which is projected to drop to 28.99% by 2020.

5. Against this backdrop that I welcome recommendation [22], recognising that minorities can be disproportionality subjected to human rights violations. Hundreds of thousands of Papuans are estimated to have suffered extra-judicial killings, torture, sexual violence and enforced disappearances at the hands of police and military forces in Indonesia. Peaceful protests are regularly met with excessive force and mass arrests. The International Coalition for Papua reports that, on average, there is more than one extra-judicial killing each month in security operations. All victims are indigenous Papuans who are often, but not necessarily linked to political activism. But they are generally targeted because of their racial identity.
6. I say “known cases” because many extra-judicial executions and cases of excessive force go unreported because human rights defenders, journalists and international observers have limited or no access to West Papua. I welcome draft recommendation [23] calling for states to **document and prosecute** these cases and the recommendations [17]-[19] on **data collection** to demonstrate these patterns of abuse and discrimination.
7. However, I emphasise the role for local and international civil society in improving documentation and in promoting protection for minorities that envisaged in recommendation [57]. Previous Indonesian administrations denied there were any political prisoners in West Papua. A civil society documentation project, Papuans Behind Bars, was created with international support to provide the statistical data to prove this was false. We now know there are as many as 100 political prisoners – all indigenous Papuans – in West Papua today. It is essential a recommendation be included to ensure states allow international organisations access to regions like West Papua to assist and support local civil society, which will ensure the role envisaged for them in recommendation 57.
8. In light of the abuse of police powers we see in West Papua and elsewhere, I welcome recommendation [20] calling for the prohibition of discriminatory exercise of police powers of arrest. In West Papua, we have seen mass arrests at peaceful protests and torture and mistreatment in pre-charge detention. Several hundred arrests are documented each year, where indigenous Papuans are unfairly targeted for exercising their democratic rights. In this regard, the recommendations should include specific concern about the criminalisation of social protest by minorities – an increasing global trend we see through the work of our Bertha Justice Initiative partners. This is consistent with the general consideration emphasised at the last Forum on the need to address obstacles which deprive minorities the opportunity to benefit equally from the socio-economic and political life of the state (see [9]).

9. I also welcome recommendation [21] on the need for practical guidance on the impartial application of the law. In Indonesia, treason laws are unfairly and disproportionately applied against indigenous Papuans who peacefully exercise their right to freedom of expression. Further, West Papuans are criminalised for displaying the Morning Star flag. Despite the flag being a recognised cultural symbol under the Special Autonomy law– subsequent laws have banned its use. These laws are used to criminalise indigenous Papuans and to prevent their cultural heritage and their legitimate expression of nationalism and political will. This recommendation should therefore go further than addressing the discriminatory application of law to require states to repeal laws that are discriminatory on their face and which permit police to discriminate against minorities in this way.
10. Finally, I welcome recommendation [26], requiring police to report and prosecute crimes against minorities. However, the problem is that police are very often the perpetrators. I emphasise the importance of recommendations requiring states to ensure justice for state crimes against minorities. In West Papua, security forces enjoy almost absolute impunity, which reinforces these discriminatory and violent practices, and reinforces to Papuans that the criminal justice system only works against them, and not for them.
11. There should be clear recommendations to international and regional organisations to supervise compliance with these recommendations. As the Melanesian Spearhead Group and Pacific Islands Forum propose solidarity and fact-finding missions to West Papua in response to the concerns I have mentioned here, it is also important to include recommendations to ensure states like Indonesia allow such missions unimpeded access.

Jennifer Robinson

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