

Because of restrictions on access to Papua and on information about developments there, the exact number of cases in which peaceful political activists have been arrested, tried, and convicted in Papua is impossible to establish with certainty. However, that this happens with regularity is not in doubt. To illustrate this problem, Human Rights Watch highlights in detail the cases of five individuals and summarizes those of thirteen others. [\[31\]](#)

Filep Karma and Yusak Pakage

Filep Karma, a 45-year-old civil servant, and Yusak Pakage, a 26-year-old student, are perhaps the most famous of Papua's political prisoners.

Karma and Pakage were arrested on December 2, 2004, and charged with *makar* (rebellion), a day after hundreds of students gathered at the local university campus and began a long march yelling slogans of "Papua" and "Freedom!" The chanting also included calls for the rejection of the law on special autonomy, and for the separation of Papua from Indonesia.

[\[32\]](#)

The celebrations were held in Trikora Field in Abepura, and consisted of speeches, prayers, and dancing. During the course of the celebration some members of the crowd raised the Morning Star flag. [\[33\]](#) Witness statements record that during the speeches the atmosphere was calm. It was only at the moment when the Morning Star flag was raised that there was violence. Witness statements in the letter of charges against Karma state that the flag raising was a spontaneous rather than organized act. [\[34\]](#) When the police attempted to forcibly remove the flag clashes broke out and the crowd attacked the police with blocks of wood, rocks, and bottles. The police responded by firing into the crowd.

[\[35\]](#)

The local newspaper, *Cenderawasih Pos*, reported that the clashes between the police and the members of the celebration resulted in injuries to five civilians ranging from gunshot wounds to sprained limbs, and injuries to eight members of the police.

[\[36\]](#)

During his trial, Pakage described what happened at the event:

At the time that the Morning Star flag was raised, I was standing with a megaphone and coordinating with the local police. I don't know who brought the flag or who raised it. I stood between the police and the masses whilst the police were firing at the crowd and the crowd was throwing rocks at the police. I was trying to control the situation so that both sides were cool-headed. The megaphone I was holding was destroyed by a bullet. [\[37\]](#)

The Prosecutor's "Summary of Charges Sheet" includes witness testimony from a Mr. Austrin Seserai, part of the police criminal investigation unit, who describes the scene:

The Reserve Unit was on alert for the whole area of Abepura. On 1 December at 6am, we undertook a sweeping of Waena and on our way back to Abepura at around 8am we noticed that some people were gathering on the field, so we stopped and observed from the top of the road. I don't know who brought the flag and I don't know who raised it-but it was the community who lowered it. At the time the flag was raised, the defendant [Yusak Pakage] was with the community and dancing in a circle. Afterwards I saw the defendant [Yusak Pakage] facing the forces and in dialogue with the police. [\[38\]](#)

Karma and Pakage were arrested the next day. Karma was later quoted on a broadcast on an Australian television program as saying "that day in 2004 we were arrested, we were put on a truck, my hands were locked behind my back, they pulled my hair and put me on a truck." [\[39\]](#)

The indictments against both men state the primary charge as "conspiracy to rebel with the intent to cause disintegration of the Republic of Indonesia and to cause social unrest" (Article 110 (1) in connection with Article 106 of the Indonesian Criminal Code). [\[40\]](#) A second charge was "undertaking or giving of orders or participation in the act of Rebellion with the intention of causing disintegration or separation of the Republic of Indonesia," (Article 106 and Article 55 (1)). [\[41\]](#) The final charge was "publicly stating hostility, feelings of hate or offense toward the government of the Republic of Indonesia," (Article 154 in connection with Article 55 (1)).

[\[42\]](#)

The prosecutor sought five years of imprisonment for each defendant.

Prior to December 1, Karma and a man called Frans Ukago (later used as a prosecution witness during the trial) had signed a letter that was sent to the local police force informing them of their intent to hold a celebration on the December 1 anniversary. [\[43\]](#) The prosecutor alleged that Karma and Pakage had held a meeting with a small group of around twenty people beside the Cenderawasih University Museum, also prior to December 1.

[\[44\]](#)

Witnesses stated that Filep Karma agreed at the meeting to take full responsibility for the entire

event including prayers, speeches, entertainment, and the Morning Star flag-raising ceremony. [\[45\]](#)

There are conflicting reports of when this meeting was held, but it appears to have been sometime between November 24 and 28. [\[46\]](#) However, both defendants and witnesses are clear that the meeting's content was not to discuss secessionism, but just December 1 celebrations.

Defense lawyers for the pair argued that while the prosecutor could prove that there was a meeting held near the university museum they could not prove or substantiate the claim that the defendants planned to establish an independent state of Papua or intended to disintegrate the Republic of Indonesia. [\[47\]](#) None of the witnesses for the prosecution made any mention of an independent state, and none of the evidence accumulated by the prosecution supported this theory either. Even if they had proved such discussions, so long as the plans did not involve violence this would be protected speech under international law.

In his statement before the Court on April 19, 2005, Karma again stated that the flag raising was a spontaneous act of the masses, and that he was not aware that it was going to occur. [\[48\]](#)

Karma was formally charged on December 2, 2004 and held in police custody throughout his trial and during the subsequent appeals process. His defense counsel argued that West Papuans celebrated West Papuan National Day with the raising of the Morning Star flag as well as the Indonesian flag (Sang Merah Putih) and that it was undertaken in a peaceful manner with cultural courtesy. [\[49\]](#)

While in pre-trial detention, Karma went on hunger-strike and took a vow of silence. He symbolized this by tying a white cloth around his mouth. When questioned by reporters as to why he was undertaking the hunger strike and vow of silence, Karma replied (in writing) that it was form of protest against the fact that he was being held as a political prisoner. [\[50\]](#)

As part of their defense, both Karma and Pakage challenged the jurisdiction of the State Court of Jayapura (Hakim Negeri Jayapura), making the political argument that an Indonesian court did not have the right to prosecute "nationals" of West Papua. The court rejected this argument. [\[51\]](#)

The defense also challenged the impartiality of Judge A. Lakoni Hernie on the grounds that the judge had made a series of inflammatory statements. These statements included:

- "Smash in the head of Filep if he's naughty" (Uttered in a direction by the judge to the police to break-up a public speech by Filep Karma on April 19, 2005). [\[52\]](#)

- "Don't bring the name of your God in here, your God has been dead a long time" (Uttered to Karma during the hearing on April 19, 2005). [\[53\]](#)

- "You be quiet, you want to die do you?" (Uttered by the judge while he was kicking and punching a female pro-Karma protestor). [\[54\]](#)

Pakage claims that the police lied and tricked him prior to his arrest. During the clash with the police, Karma had disappeared and the angry crowd assumed that he had been kidnapped by the security forces. In order to prevent the crowd from sparking a riot at the police station, the police told Pakage and approximately twenty colleagues to go to the Jayapura Police Station to check for themselves on Karma's whereabouts. Once they arrived at the police station, seventeen members of the group were detained and interrogated by the police. They were subsequently released but the next day Pakage was held for treason and spreading hatred against the government. Pakage refused to participate in any questioning as he did not have a lawyer present, nor had he had an opportunity to consult with one. He maintained this stand until December 11, when he says he relented due to constant pressure, persuasion, and cajoling from the police. Pakage claims that the investigator doctored his statement, added text, and forced him to sign it. During his trial, Pakage asked the court to withdraw his statement, which he claims was made under duress. [\[55\]](#)

Initial accusations against Pakage included "undertaking with one or more persons the use of violence or threatening the use of violence against a public civil servant or a civilian who is helping the public civil servant" (KUHP Article 214). This charge was later dropped in the formal indictment, but was used to extend the period of pre-trial detention for a further 40 days. [\[56\]](#)

In court on February 14, 2005, Pakage read aloud a statement in which he stated that the accusations against him were vague and inaccurate. He also stated "I do not accept the accusations of the Public Prosecuting Attorney and I request that I be released." [\[57\]](#) His

objections included the following points:

1. He was not a signatory to the notice given to the Regional Police regarding the event planned at Trikora Field and therefore could not be considered a "ringleader" or responsible for the event that took place. [\[58\]](#)

2. He could not have attended the alleged meeting next to the Cenderawasih University Museum, as on the date of the alleged meeting he had been attending a prayer memorial for the late Ambrosius Mote in a boarding house in Padang Bulan, Abepura. [\[59\]](#)

3. He had no desire nor plans to raise the Morning Star flag and was not involved in the preparation or raising of the flag at Trikora field. In addition he had never planned to rebel against the Republic of Indonesia in any form, either physical or verbal. [\[60\]](#)

4. At the time the Morning Star flag was raised he was standing with a megaphone and coordinating with the local police. He does not know who brought the flag to the field nor who raised it; the identity of the person(s) who raised the flag has not been determined by the police or the prosecutor. [\[61\]](#)

5. His intention in taking control of the situation at the field was so that both sides would become cool-headed (*berhati dingin*) to prevent clashes and to facilitate dialogue. He stood between the police and masses while the police were firing at the crowd and the crowd was throwing rocks at the police. [\[62\]](#)

6. He encouraged the masses to lower the Morning Star flag and, despite initial reluctance and stubbornness, after twenty minutes they agreed to do so. [\[63\]](#)

1. None of the evidence provided by the prosecutor, including documents, the flag pole, an edition of the Cenderawasih Pos newspaper, and other material items, supported the evidentiary requirements for conviction for an act of rebellion. [\[64\]](#)

2. The facts only showed that Pakage was a coordinator, and that he gave a speech. [\[65\]](#)

The trial of Karma and Pakage was marred throughout by protests, clashes between supporters of the two men and the police, and threats and intimidation towards their defense team by anonymous persons.

On May 10, 2005, a major clash between supporters and security forces occurred outside the court. Court windows and some vehicles were smashed when protestors hurled rocks at the police. [\[66\]](#) The supporters were protesting the prosecutors' request for a five-year prison sentence for Karma, and were demanding that Karma be allowed to address the crowd directly. When no response was forthcoming, the demonstrators tried to block the vehicle that was returning from the courthouse with the two defendants inside. At least thirteen people, including two police officers, were wounded in the clashes that ensued. [\[67\]](#)

Many of the protestors claimed that the security forces had used excessive force in responding to the demonstrations, and that several protestors were wounded as a result. One of the victims stated that a security force member gave him an injection in the neck shortly after he had been put into a police vehicle. [\[68\]](#)

Some demonstrators reported the incident to the Papuan branch of Indonesia's National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia*, Komnas HAM), claiming that security forces had used extreme brutality. In their report the demonstrators stated:

We think that in carrying out their duties the police acted brutally resulting in many victims. We request that the National Human Rights Commission of Papua carry out an investigation of the Police members and civilians that were involved in perpetrating violence. [\[69\]](#)

The national police chief conceded that the police had overreacted. Jayapura police chief Son Ani and his subordinate Novly Pitooy were removed from their positions. Nine other lower-ranking officers were demoted on grounds of human rights and procedural violations that they were deemed to have committed during the protests. [\[70\]](#) No criminal prosecutions have been undertaken.

After this the security forces assigned 300 police officers to protect the court. The police guarded all sides of the court, as well as the main street leading to the court, and conducted searches of all persons entering the court building. [\[71\]](#) Local papers reported the court room was full of visitors and supporters of the two defendants, with all seats taken and people crowding the court's doorways. [\[72\]](#)

One of the defense lawyers for Karma and Pakage, Paskalis Letsoin, was quoted in the *Cenderawasih Pos* as saying:

If it is being said that we as the defense team were the trigger for the May 10 riots, then this is erroneous. What we are doing is ensuring that all the legal processes run according to procedure, without pressure from any side, and the court must be just in its attitude with a strong presumption of innocence, unlike what we have seen occurring up until now. [\[73\]](#)

Other supporters calling themselves the "Street Parliament of the Papuan People" also protested outside the court during the trial, demanding the release of Karma and Pakage on the basis that they were political prisoners. Pamphlets distributed at the demo appealed to the government to:

Free Filep Karma and Yusak Pakage and other Papua Political prisoners, if the state forbids its people to be political then the state is denying the human rights of the Papuan people. [\[74\]](#)

Karma and Pakage's defense team also received threats and intimidation during the trial. A severed dog's head was left in the front of the Jayapura Legal Aid office with a note tied around its head that said "Paskalis/Pieter [names of the lawyers], this is an example of your head, from the people of NKRI [Unitary Republic of Indonesia]." [\[75\]](#)

Reacting to the incident Pieter Ell, the main defense lawyer in the case, stated, "There are strong indications that there are people who want to intentionally create a horizontal conflict [i.e. civil conflict] and the security forces should be questioned on this." [\[76\]](#)

At one point the defense team registered their protest by silently distributing their written defense brief to the judges, prosecutor, and defendants, and walking out of the courtroom. The judge then asked the defendants to read their own defense in the absence of any legal representation. [\[77\]](#)

Karma read his own defense to the court. Pakage stated that he felt unwell and was not fit to read out his own defense. The judge ignored the complaints of the defendants and requested a response from the prosecutor. The prosecutor requested five years of imprisonment for both Filep Karma and Yusak Pakage. [\[78\]](#)

On May 26, 2005, both Karma and Pakage were found guilty of the charges and sentenced to 15 years and 10 years of imprisonment respectively. [\[79\]](#) They were also both fined 5,000 Rupiah (about US\$0.50) for court costs and Karma was stripped of his status as a public servant. [\[80\]](#)

In justifying the heavy sentence given to Karma, which was three times longer than the original five-year jail term requested by the prosecutor, the judges stated that there were many factors that weighed against the defendant and no mitigating factors. Filep Karma had been convicted over a similar matter on the nearby island of Biak in 1988 and at that time had been jailed for six years. The judges considered that Karma had a "hostile attitude" toward the government of Indonesia and that his actions were aimed at separating and destroying the regional integrity of the country and causing social unrest. They also stated that Karma had never shown remorse for his actions, and he had demonstrated that he had never felt like a citizen of Indonesia. [\[81\]](#)

In their ruling against Pakage, the judges concluded his actions were aimed at separating and destroying the regional integrity of Indonesia and had caused social unrest. Because Pakage had never previously been convicted, however, his sentence was shorter. [\[82\]](#)

During Pakage's sentencing, the judges stated that Pakage had ignored a ban announced by the police, the Papuan Provincial Governor, and the head of the local administration (Muspida) by continuing to celebrate the West Papuan Independence Day and Morning Star flag raising ceremony, which had caused a riot and clashes between the police and the masses. The judges concluded he had rebelled against the state and was aware of the consequences:

It is apparent that the defendant Yusak, as a ringleader of the activities celebrating West Papuan independence on December 1, 2004, knew and understood that the raising of the Morning Star flag symbolized support for separating the Province of West Papua from the Republic of Indonesia [the defendant] has undertaken actions that reflect hostility toward the People and Nation of the Republic of Indonesia. [\[83\]](#)

Karma and Pakage each immediately lodged an ultimately unsuccessful appeal to the High Court. A further appeal was then filed with Indonesia's Supreme Court on the grounds that essential legal procedures were not followed in the original appeal. The defense argued that the state court of Jayapura had failed to send the defendants "Brief for the Appeal" to the High Court. The High Court's decision clearly states that "no brief for the appeal was lodged by the defendants." [\[84\]](#) The defense team also argued that Judge Lakoni had acted in a discriminatory manner and displayed bias throughout the trial. On October 27, 2005, the Supreme Court rejected the appeal. It did not provide an explanation or statement for its decision. Karma and Pakage were each charged a further 2,500 rupiah for court costs. [\[85\]](#)

Linus Hiluka

Linus Hiluka is a 34-year-old farmer who was charged with rebellion against the state and spreading hatred (Article 110, 106 and 154 KUHP) for associating himself with the Baliem Papua Panel (BPP). The BPP is accused of "struggling for the independence of the province of Papua to become a region or state which is self-governing or independent." [\[86\]](#)

Prosecutors in Hiluka's case alleged that on May 26, 2000, Baliem community members nominated Hiluka as a delegate to attend the second Papuan Congress held between May 20 and June 4, 2000 in Jayapura, [\[87\]](#) and that the Papuan Congress II resulted in four main

strategic areas of action for the delegates. These were:

- Rectifying (*meluruskan*) the history of West Papua;
- Separating from the Unitary Republic of Indonesia via dialogue in a peaceful and democratic manner;
- Restoring the basic rights of the people of Papua with the rejection of special autonomy; and
- Installing members of the Panel and the Presidium. [\[88\]](#)

At the congress, Hiluka was installed on the council board of BPP. On his return from the congress, he was accused of disseminating information to the community about the congress' decisions. Hiluka was accused of making public speeches in public parks, during prayer time, in churches, and in private houses within the Jayawijaya area. These activities were often preceded by the raising of the Morning Star flag. [\[89\]](#)

As a member of the BPP, Hiluka was also accused of meeting with other members, attending meetings in Jayapura to reject the special autonomy law proposed for Papua, possessing and storing important correspondence linked with the independence movement, forming the Papuan taskforce, establishing taskforce command posts, making community members believe that Papua would be independent, and installing a painted map of West Papua and the Morning Star flag on the wall of his house in Ibele. [\[90\]](#)

For these crimes the prosecutor asked that Hiluka be sentenced to 15 years of imprisonment and a fine of 5,000 Rupiah. The State Court of Wamena imposed a tougher sentence and punished Hiluka with 20 years imprisonment with a 1,000 Rupiah fine. [\[91\]](#) Hiluka appealed the court's decision, but the High Court of Jayapura upheld the original ruling and sentence. [\[92\]](#)

Hiluka's final appeal to the Supreme Court of Indonesia was rejected on the basis that the appeal brief was received after the 14-day appeal period, thus voiding the right to appeal. [\[93\]](#)

Reports indicate that Linus Hiluka was transferred from Wamena to a prison in Makassar, Sulawesi, in December 2004. [\[94\]](#) His new prison is not only located on another island, but is located more than 1,000 miles from Wamena, making it nearly impossible for his family and lawyer to visit him.

Moses Holago and Moses Aspalek

Moses Holago and Moses Aspalek were arrested on December 9, 2004, and charged with rebellion against the state (106 KUHP connected with article 55 KUHP, with a subsidiary charge of 110 KUHP connected with article 55). [\[95\]](#)

Moses Holago was accused of attending a meeting on August 11, 2004, to discuss the details of the structure of an independent West Papuan government. The meeting was held in the village of Wutung in the District of Muara Tami (Papua New Guinea). [\[96\]](#)

Both Moses Holago and Moses Aspalek were accused of attending a meeting at the house of Reverend Mathen Asso in Waena, Abepura District, Jayapura City, to discuss seeking funds to attend a meeting in Wewak in Papua New Guinea (PNG). [\[97\]](#)

The meeting in PNG was called the Extraordinary National Papuan Congress. The three-day meeting led to the formation of a nominal West Papuan government (West Papuan Authority Government) and nominated Edison Waromi as president of the authority. According to the indictment against Moses Holago, the intention of the assembly was to unite the factionalized pro-independence groups and develop community struggles for an independent West Papua. [\[98\]](#)

Moses Holago and Moses Aspalek were arrested at the border with PNG in the village of Wutung, Muara Tami District, as they attempted to cross from PNG back to Indonesia without proper documentation. They were searched and documents were found wrapped in plastic inside Moses Aspalek's left shoe. [\[99\]](#) The documents found on the two defendants included:

- A card with a drawing of the Indonesian flag, the Morning Star flag and the PNG flag with the writing "Internasional [sic] Border PNG-RI Humanity People Landows [sic] Right Commission Port Numbay Vanimo- Merauke-Daru" and on the back written "504 Moses Aspalek, Job Investigation Address West Papua" stamped and signed by a Mr. M Tampoto;
- A similar card to the one mentioned above owned by Moses Holago;
- A letter stamped by the Tentara Papua Nasional (TPN) West Papua and signed by Yantos Titus Tabuni with the letter header "National Independence Army of West Papua, Regional Military Command Baliem II;" and

- A letter "Request for Recommendation for going to Australia," property of Moses Holago. [[100](#)]

During the trial Moses Holago claimed that he did not attend the fundraising meeting. However, he acknowledged crossing to Wewak on a speed boat with Moses Aspalek, as well as with other individuals named Nelles Elopere, Simon Heyapok, and Filep Karma. [[101](#)]

During the trial photos were produced by the prosecution showing Moses Holago, Moses Aspalek, Filep Karma, and another man named Albert Kailele at the congress. Moses Holago identified the flag in the photo as the Morning Star flag and the chair of the meeting as Filep Karma. [[102](#)]

The primary charges against the defendants were rebellion with intent to cause state disintegration (Article 110 paragraph 1 connected with Article 106, Article 106 and Article 55 paragraph 1) and causing social unrest. The prosecution asked for three years of imprisonment. [[103](#)]

The defense team argued that the prosecution's case did not constitute proof of rebellion. [[104](#)] Human Rights Watch has read the trial transcript and it would appear that the sole act of "rebellion" which the men are deemed to have committed is the attendance at the meeting in Wewak, Papua New Guinea, on the structure of an independent Papuan government. The prosecution made no allegation or charge that the men were members of a banned organization and no suggestion during the trial that the two men were members of the TPN or any other banned organization. As stated above the charges were based solely on their attendance of the meeting at Reverend Asso's house.

Moses Holago was sentenced to four years of imprisonment and fined 5,000 Rupiah, and Moses Aspalek was sentenced to 6 years. [[105](#)] The judges considered that the sentence for Holago should be lenient as "the accused is a village person who is simple and easily influenced." [[106](#)]

An appeal on the sentence passed on Moses Holago was immediately launched on the day of the ruling. During the appeal hearing, the defendant and the defense team strongly objected as

a copy of the ruling had not made available to them, making it difficult to prepare the appeal. [\[107\]](#)

The Jayapura High Court accepted that the appeal had been submitted in accordance with the law, but upheld the original verdict and sentence. [\[108\]](#) Human Rights Watch has no information regarding any appeal made on behalf of Moses Aspalek.

[Previous](#) Protest and Punishment Map of Papua. Summary II. Background III. Legal Framework IV. Cases of Political Prisoners Jailed for ... V. Summary of Other Cases VI. Recommendations VII. Acknowledgements [Next](#)

[\[31\]](#) Human Rights Watch was unable to confirm whether or not the following individuals were convicted: (1) Yakob Ambo Mamori: On January 28, 2006, Yakob Mamori was arrested by police in Jayapura after raising the Morning Star flag. Newspapers reported that Yakob was arrested after local residents alerted the police that four people were raising the flag outside the Sentani District Office. According to the chief of the Jayapura Police, Adj. Sr. Comr. Jacob Kalembang, Yakob admitted that he had helped to raise the flag, but that he had been told to do so by "unidentified people." The police reported that they were trying to trace the other three identified individuals. The police may have dropped the charges as it is believed that Yakob has some form of mental disability. The police have stated, however, their intent to continue the search for the three other people who are believed to have been involved with the flag raising.

Pemeriksaan tersangka bintang kejora dihentikan

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Cenderawasih Pos

, February 2, 2006; "Papuan arrested for Flying Flag,"

The Jakarta Post

, January 30, 2006. (2)

Charlie Imbir, Chris Ukago, Herman Katmu and Markus Jiwitao: In December 2003 four Papuan students, including one high school student, studying in the Javanese town of Semarang were arrested by the police after they tied Morning Star flags to balloons and set them afloat in the town centre to mark Papuan independence day. Indonesian police officer Sergeant Joko Sutanto told reporters that the students could be charged with treason, a crime that carries a maximum punishment of 20 years of imprisonment.

"Indonesia arrests four Papuans for flying separatist flags," Associated Press, December 4, 2003; Jason MacLeod, "Students face twenty years' jail for raising flag,"

Green Left Weekly

, January 14, 2004.

[\[32\]](#) "Pengibaran Bintang Kejora di Abe Berbuntut Bentrok," *Cenderawasih Pos*, December 2, 2004.

[33] The Morning Star flag is a popular symbol of independence and flag raising ceremonies has been used to declare opposition to Indonesian rule in Papua.

[34] Letter of Charges Number PDM-112/JPR/Ep.2/12/2004: Pendeta Yesaya Majar Dimara, pp1-2.

[35] Letter of Charges Number PDM-112/JPR/Ep.2/12/2004: Ivo Fontana and Ibrahim Hadi p4-5; " *Pengibaran Bintang Kejora di Abe Berbuntut Bentrok*" *Cenderawasih Pos*, December 02, 2005.

[36] "*Pengibaran Bintang Kejora di Abe Berbuntut Bentrok*," *Cenderawasih Pos*, December 2, 2004; " *Filep Karma ditangkap*," *Cenderawasih Pos*, December 02, 2004.

[37] Defense Brief of Yusak Pakage regarding Indictment (Surat Dakwaan) Number PDM-112 /JPR /Ep.2/12/2004.

[38] Letter of Charges Number PDM-112/JPR/Ep.2/12/2004: Austrin M. Seserai, p2.

[39] "Convicted Papuan speaks out," Lateline, Australian Broadcasting Corporation, broadcast May 4, 2006, <http://www.abc.net.au/lateline/content/2006/s1631133.htm>, (accessed December 11, 2006).

[40] Surat Dakwaan No. Reg. Perk. PDM-111/T.1.10/Ep2/12/2004 Filep Karma; Surat Dakwaan No. Reg. Perk. PDM-112/T.1.10/Ep.2/12/2004 Yusak Pakage.

[41] Surat Dakwaan No. Reg. Perk. PDM-111/T.1.10/Ep2/12/2004, pp1-2.

[42] Surat Dakwaan No. Reg. Perk. PDM-111/T.1.10/Ep2/12/2004, pp1-2.

[43] Surat Tuntutan Filep Jacob Semeul Karma No. Reg.Perk: PDM-111/JPR/Ep.2/12/2004, p.6.

[44] Nethy Dharma Somba, "Papuan separatists on trial for treason," *The Jakarta Post*, (accessed January 13, 2005).

[45] Surat Tuntutan PDM-111/JPR/Ep.2/12/2004 Re: Filep Jacob Samuel Karma- Statement from Jefrison Alvian Pagawak, p1.

[46] Surat Tuntutan Filep Jacob Semeul KarmaNo. Reg.Perk: PDM-111/JPR/Ep.2/12/2004, p.7.

[47] Note of Defense from the Legal Advisor of the Accused: Filep Karma in the case No. 04/Pid.B/2005/PN-JPR, p16.

[48] Note of Defense from the Legal Advisor of the Accused: Filep Karma in the case No. 04/Pid.B/2005/PN-JPR, p15.

[49] Note of Defense from the Legal Advisor of the Accused: Filep Karma in the case No. 04/Pid.B/2005/PN-JPR, p5. The lawyers also raised arguments that the actions were consistent with the Declaration on the Granting of Independence to Colonial Countries and Peoples Resolution 1514 (XV) and Article 73 of the United Nations Charter which obliges States governing territories to ensure, amongst other things, their political, economic, social, and educational advancement, and to take due account of the political aspirations of the peoples. Karma's defense also incorporated the historical argument that a 'one man one vote' referendum was never

undertaken in West Papua, and therefore Indonesia had breached the UN New York Agreement (1962) regarding the future of West Papua.

[50] "*Filep Karma Mogok Makan dan Membisu,*" *Cenderawasih Pos*, December 6, 2004; "*Filep Karma Mogok Makan Sampau Mati*"
,
Cenderawasih Pos
, December 10, 2004; "*Filep Karma Diisukan Meninggal,*"
,
Cenderawasih Pos
, December 15, 2004.

[51] "*Eksepsi Penasehat Hukum Terdakwa Ditolak,*" *Papua Pos* , February 03, 2005, p4; "*Eksepsi Filep Karma Ditolak*"
,
Cenderawasih Pos
, February 4, 2005.
Judge Iksan rejected the statements outright and explained his decision in court. He stated, "The panel of judges gives the opinion about his identity, he is a civil servant in the province of Papua, it is not possible that a foreigner can become a civil servant. As *de jure* and *de facto* he is a child (employee) of the former governor, and the suspect has not changed citizenship but remains a citizen of Indonesia. Because of that Jayapura Court, authorized to hear cases, rejects the defendants' statements."

[52] Note of Defense from the Legal Advisor of the Accused: Filep Karma in the case No. 04/Pid.B/2005/PN-JPR, 2005, p7-8.

[53] Note of Defense from the Legal Advisor of the Accused: Filep Karma in the case No. 04/Pid.B/2005/PN-JPR, 2005, p7-8.

[54] Note of Defense from the Legal Advisor of the Accused: Filep Karma in the case No. 04/Pid.B/2005/PN-JPR, 2005, p7-8; " *Catatan dibalik kerusuhan Sidang Filep Karma dan*

Yusak Pakage
2005.

," ELSHAM News Service, May 11,

[55] Defendants Response to Charges number PDM-112/JPR/Ep.2/12/2004 in the name of Yusak Pakage, January 24, 2005, p3.

[56] Document for Extension of Imprisonment Number B-241/ T1.10/Epp.2/12/2004: Yusak Pakage,p.1.

[57] "*Sidang Makar, Yusak Pakage Tegang,*" *Cenderawasih Pos* , February 15, 2005, p2.

[58] Defendants Response to Charges (Eksepsi) number PDM-112/JPR/Ep.2/12/2004 in the name of Yusak Pakage, January 24, 2005.

[59] Ibid.

[60] Ibid.

[61] Ibid.

[62] Ibid.

[63] Ibid.

[64] Ibid.

[65] Ibid.

[66] "Violence breaks out in Indonesia's Papua, many injured," Deutsche Presse Agentur, May 10, 2005; " *Akibat Sidang Filep dan Yusak Banyak Sidang Tertunda,*" *Papua Pos* , May 27, 2005.

[67] "*Belum Bisa Dinyatakan Penlanggaran HAM,*" *Papua Pos*, May 13, 2005; "At least 13 injured in riot at trial of Papua pro-independence activist," Agence France Presse, May 10, 2005.

[68] "*Belum Bisa Dinyatakan Penlanggaran HAM,*" *Papua Pos*, May 13, 2005.

[69] "*Belum Bisa Dinyatakan Penlanggaran HAM,*" *Papua Pos*, May 13, 2005.

[70] "Country Reports on Human Rights Practices 2005: Indonesia," US Department of State, March 8, 2006.

[71] "*Sidang Maker Filep Karma, Ditundah,*" *Cenderawasih Pos*, May 18, 2005.

[72] "*Sidang Maker Filep Karma, Ditundah,*" *Cenderawasih Pos* , May 18, 2005.

[73] "*PH Filep Karma Ancam Boikot Sidang,*" *Cenderawasih Pos*, May 23, 2005, p 2.

[74] "*JPU Tak Siap, Tuntutan Fielp Karma Ditunda,*" *Cenderawasih Pos* , May 14, 2005, p4 & 8.

[75] "Diteror dengan Kepala Anjing," *Papua Pos*, May 20, 2005; "PH Filep Karma Dikirim
Kepala Anjing," *Pacific Pos*,
May 25, 2005.

[76] "Ada indikasi kuat kalau ada orang-orang yang memang sengaja ingin membuat suatu konflik horizontal, atau istilah ini seperti *by design* yang arahnya pada konflik horizontal. Dan itu bisa tanyakan sendiri pada aparat;" "Diteror dengan Kepala Anjing," *Papua Pos*, May 20, 2005, p2.

[77] "Diteror dengan Kepala Anjing," *Papua Pos*, May 20, 2005, p2.

[78] "Diteror dengan Kepala Anjing," *Papua Pos*, May 20, 2005, p2.

[79] "Vonis 15 Tahun Tak Selesaikan Masalah," *Cenderawasih Pos*, May 28, 2005, p1 & p4.

[80] "Divonis 15 Tahun, Filep Karma Tertawa," *Cenderawasih Pos*, May 27, 2005.

[81] "Divonis 15 tahun, Filep Karma Tertawa," *Cenderawasih Pos*, May 27, 2005; Sentence Number: 04/Pid.B/2005/PN-JPR On the Case of the Accused Filep Karma, 2005, p 20.

[82] "Divonis 15 tahun, Filep Karma Tertawa," *Cenderawasih Pos*, May 27, 2005.

[83] Ruling number 05/PID.B/2005/PN.JPR, p 22.

[84] Ruling, High Court of Jayapura Number 21/Pid/2005/PT.JPR, July 11, 2005, p11.

[85] Putusan Pengadilan Tinggi Jayapura Nomor: 21/Pid/2005/PT.JPR Atas Nama Terdakwa Filep Jacob Semeul Karma, July 11, 2005.

[86] Putusan Mahkamah Agung No. 873/K/Pid.2004.

[87] Other named delegates from the Jayawijaya region were John Wilil, John Wetipo, Kostan Tabuni, Murjono Murib and Obet Komba, Putusan Mahkamah Agung No. 873/K/Pid.2004, p2. For more information on the second Papuan Congress see Human Rights Watch, "Violence and Political Impasse in Papua," New York, Vol. 13 No. 2 (C) July 1, 2001; Human Rights Watch, "Human Rights and Pro-Independence Actions in Papua, 1999-2000," New York, Vol. 12 No.2 (C).

[88] Putusan Mahkamah Agung No. 873/K/Pid.2004, p2.

[89] Putusan Mahkamah Agung No. 873/K/Pid.2004, p3.

[90] Putusan Mahkamah Agung No. 873/K/Pid.2004, p3.

[91] Putusan Mahkamah Agung No. 873/K/Pid.2004, p7-9.

[92] Putusan Pengadilan Tinggi di Jayapura 4 Maret 2004 no 06/PID/2004/PT.JPR

[93] Putusan Mahkamah Agung No. 873/K/Pid.2004, June 28, 2004, p.11. Judges German Hoediarto, Mansur Kartayasa, H. Dirwoto, and Nyoman Dika.

[94] "9 Napi Makar dari Wamena Dipindahkan ke Makassar," *Cenderawasih Pos*, December

16, 2004; "
pi Makar Dipindahkan dari Wamena ke Makassar,
"
Kompas
, December 17, 2004.

Na

[95] Surat Dakwaan No. Reg Perk: PDM-32/T.1.10/Ep.2/12/2004, p.2 and 3.

[96] Surat Perintah Penahanan

[97] Surat Dakwaan No. Reg Perk: PDM-32/T.1.10/Ep.2/12/2004, p.2.

[98] Surat Dakwaan No. Reg Perk: PDM-32/T.1.10/Ep.2/12/2004, p.2.

[99] Witness Statement by Ferdinad Amora, Surat Tuntutan No. REG.PERK:
PDM-32/JPR/EP.2/12/2004, 2005, p4-5.

[100] Surat Dakwaan Np. Reg Perl: PDM-32/T.1.10/Ep.2/12/2004, p.2.

[101] Surat Tuntutan Np. REg Perk: PDM-32/JPR/EP.2/12/2004 *Keterangan Terdakwa*, p.5.

[102] Surat Tuntutan Np. REg Perk: PDM-32/JPR/EP.2/12/2004 *Keterangan Terdakwa*, p.5.

[103] Surat Tuntutan Np. REg Perk: PDM-32/JPR/EP.2/12/2004 *Keterangan Terdakwa*, p.9.

[104] Nota Pembelaan Penasehat Hukum Atas Nama Terdakwa: Moses Holago, p.10.

[\[105\]](#) "Country Reports on Human Rights Practices 2005: Indonesia," US Department of State, March 8, 2006.

[\[106\]](#) Putusan Nomor: 26/Pid.B/2005/PN-JPR 09/06/2005.

[\[107\]](#) Memori Banding Penasehat Hukum Terdakwa Atas Nama Moses Holago dalam perkara nomor 26/Pid.B/2005/PN-JPR.

[\[108\]](#) Putusan No. 28/PID./2005/PT.JPR Terdakwa Moses Holago.