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# Justice for the People of West Papua

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## *A. Organizations submitting the recommendations*

The Organizations submitting the recommendation for West Papua are;

1. Organisasi Papua Merdeka (Free Papua Movement) (OPM/FPM)
2. Solidarity for Indigenous Papuans
3. Dewan Adat Papua (Papua Customary Council)

The organizations listed above are founded by West Papuans and run by West Papuans to advocate for issues affecting the People of West Papua, the Western half of the island of New Guinea which is presently under Indonesian occupation. The OPM is a political organization founded in 1965 which fights for West Papua's political, cultural, and economic independence, while the Papua Customary Council is a cultural organization founded in 2001 to protect and preserve the culture, land, and lifestyles of the people of West Papua. Solidarity for Indigenous Papuans is a network of NGOs and individual activists advocating for human rights and climate change issues in West Papua.

The recommendations are based on the experiences and desires of the people of West Papua which contains the longing for freedom held deep within every West Papuan. Thousands of our forefathers fought with bows and arrows only to preserve our identity, dignity, pride, and land hoping that their children would one day rule themselves on their land free from external interference. Today we recognize their efforts and the sacrifices they endured for our people. We also remember the brave warriors of African Descent throughout the world who fought for the same desire for freedom for our kind, we honor our great leaders in the likes of Toussaint Louverture, Marcus Garvey, Martin Luther King Jr., Kwame Nkrumah, Patrice Lumumba, Steve

Biko, and Malcolm-X, among others in history, whose contributions to freedom and liberty for the people of African descent still vibrate throughout time immemorial.

West Papuans identify as People of African descent. In the seventies, a Papuan Diplomat made it very clear when he was asked about the relationship between Oceania and Africa: “Africa is our motherland. All of the Black populations which settled in Asia . . . came undoubtedly from the African continent. . . Hence, we the Blacks in Asia and the Pacific today descend from proto-African peoples. We were linked to Africa in the past. We are linked to Africa in the future. We are what you might call the Black Asian Diaspora.”<sup>1</sup>

On the 31<sup>st</sup> of August 2022, the United Nations celebrated the second International Day for the People of African Descent to (1) celebrate the contributions of the people of African descent to the world and to (2) recognize the years of slavery, racism, and colonialism that the people of African Descent went through in the past and are currently going through in all sectors of human development. The years of enslavement, colonialism, and racism experienced by the people of African Descent throughout the world still manifest today in different forms. The People of African Descent in different parts of the world still experienced mistreatment regardless of the huge effort being invested into eradicating slavery, racism, and colonialism against the People of African descent under the leadership of the United Nations.

The West Papua People in Indonesia share the same experiences of colonialism, neo-colonialism, racism, and discrimination under different colonizers over the last 62 years since 1960. In West Papua, the existing political, social, economic, cultural, and human rights problems are deeply rooted and intertwined in the history of the West Papua peoples’ struggle for self-determination. The ongoing problems in West Papua today should have been avoided had the world leaders listened to the appeals made by the people of West Papua in the 1960s. On the basis of General Assembly Resolution 1514 of 14<sup>th</sup> December 1960 on the granting of independence to colonial peoples and territories, West Papuan leaders repeatedly made known to the Dutch, who were their colonizers at the time, that West Papuans demanded their own position to be “equal to that of the free nations and in the ranks of these nations [they], Papuans, wish to live in peace and to contribute to the maintenance of world peace”<sup>2</sup>. In other words, West

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<sup>1</sup> Maglangbayan and Moore, “Interview with Ben Tanggahma.”, in Quito Swan, *Blinded by Bandung? Illumining West Papua, Senegal, and the Black Pacific* at <https://iah.ucsd.edu/files/research/swan.pdf>

<sup>2</sup> Manifesto First Papuan Peoples' Congress, October 19, 1961. At <http://wpik.org/Src/whosewho.html>

Papuans have always wanted to be an independent Nation, free of the chains of colonization and imperialism.

To date, West Papua people still maintain their desire for self-determination which was denied to them in the 1960s. The People of West Papua thus welcome with great expectation the establishment of the Permanent Forum for People of African Descent. The People of West Papua are convinced that the Office will serve its purpose with great diligence within the United Nations to advocate for the people of African descent throughout the world including the people of West Papua.

### ***B. The West Papua Conflict***

Indonesia invaded West Papua by force in 1961 under three peoples' command operations known at the time as (Operasi Trikora) and maintained the region as a special military operations area under what has been known as "Daera Operasi Militer" (DOM) up to the present. West Papuans were dehumanized and branded as "monkeys", lazy, stupid, smelly, rebellious, and unreliable sort of people by the Indonesians to justify their killings.

When Indonesians came into West Papua, they killed or imprisoned the educated elites of the area, burned the books, schools, health facilities and ransacked the contents, and used them or sold them in Jakarta for profit leaving the West Papuans with nothing (*see Thesis paper attached for full narrative*). The International community sided with Indonesia leaving the people of West Papua to suffer in silence over the last sixty years.

The conflict between Indonesia and West Papua is ongoing in addition to systemic racial and cultural discrimination and gross human rights violations. The armed conflict has affected the people of West Papua in all sectors of development from physical to psychological, cultural, economic, and political.

### ***C. Immediate Decolonization of West Papua as a means of urgent reparation of the harm caused by State actors and the United Nations***

West Papua satisfies all the requirements stated in the UNGA resolution 1514 (XV) of 14th December 1960 on the granting of independence to colonial peoples and territories and resolution

1541 (XV) under which the colonial power was obliged to submit information under Article 73 of the Charter. The UNGA resolution 1514 (XV) was very clear under item 2 that;

“All people have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”.

By definition, the People of West Papua are Melanesian People. They form an ethnological unit separate from the people of Indonesia and could easily be distinguished by the different geographical features, cultural, ideological, racial, ethnic, linguistic, and other features between the two. The rationale that was applied by the colonial powers in the sixties to allow West Papua's annexation by Indonesia was therefore not based on reasonable arguments and went against the wishes of the people of West Papua in contravention to the spirit of Articles 73 and 74 of the UN Charter.

The colonizers positioned themselves as enlightened people. Like the Belgians in the Congo who professed to save the people of Congo from hell while plundering the resources and murdering natives, Indonesians saw themselves as angels of liberty who were on a mission to liberate primitive West Papuans from the Stone Age while the Netherlands government put themselves as the enlightened ones and decided the fate of the entire population of West Papua without even involving West Papuans in their discussions.

The Dutch Government did not fulfill its obligations in the sixties as the previous colonizer of West Papua and is responsible up until today for the harm that is being caused by the new colonizer: the Indonesian Government and its security forces. The Dutch Government and corporations are mostly known for the harm they caused during slavery, and their colonial past in Indonesia and other territories. The Dutch Government has started to apologize for its wrongdoings in Indonesia. But it has not yet come to terms with the role it has played in the debacle that was the unfinished West New Guinea decolonization which has had dramatic and traumatic consequences for the People of West Papua from 1961 up until today. Whereas the Dutch have carried out a historical study of what happened in the sixties, the 1963 illegal annexation of West Papua by Indonesia, and the 1969 fraudulent vote under the supervision of the UN<sup>3</sup>, they have not yet decided to look at the political implications of this historical study by bringing it on the table and holding a frank and genuine debate about it. Not only should the Dutch Government apologize for the part it

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<sup>3</sup> The study commissioned by the Dutch Government was published in a book: *An Act of Free Choice: Decolonisation and the Right to Self-Determination in West Papua*, by Peter Drooglever (2010). It is an authoritative history of West Papua up to the controversial takeover by Indonesia in 1969.

played in the fraudulent recolonization of West Papua in the sixties, but it should also ensure political follow-up of the historical study and take its moral responsibility in bringing the West Papuan decolonization to an end by putting the West Papuan case back on the agenda of the United Nations by co-operating with the other responsible parties in the actions recommended below.

The American Government and its Central Intelligence Agency, through their excessive interventions in the affairs of other countries, are responsible for the hostile recolonization of West Papua by Indonesia as they fostered the conditions in which it happened<sup>4</sup>. As such the American Government should recognize the harm done to the People of West Papua through its actions in the sixties and put the West Papuan case back on the agenda of the United Nations by co-operating with the former and present colonizers of West Papua in the actions recommended below.

The following recommendations in terms of straightening the historical wrongs and the unfinished decolonization of West Papua would help towards addressing and redressing the situation:

- The West Papua case needs to be addressed as per the ECOSOC report (E/C.19/2013/12) of 20th February 2013<sup>5</sup>. West Papua needs to be placed on the United Nations list of non-Self-governing Territories to ensure the decolonization program for West Papua continues from where it stopped in the 1960s. It was clear according to the report that (1) West Papua satisfied the criteria in the resolution 1541 (XV), (2) it was initially listed on the list of non-self-governing Territories by the UN, (3) Article 3 of the United Nations Declaration on the Rights of Indigenous People supports the right to self-determination for the indigenous people, and (4) in honor of the establishment of the permanent forum on the people of African descent in the United Nations Human Rights Council, the UN has to once again take the lead in addressing the West Papua problem going back to the 1960s and right the wrongs committed against the people of West Papua.
- We urge that the Working Group on the People of African Descent notify the Office of Internal Oversight Services (OIOS) to investigate the work of the United Nations from 1949 to 1969 on the West New Guinea dispute between the Republic of Indonesia and the Kingdom of the Netherlands. As part of the recognition of the past actions, the United

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<sup>4</sup> See *The Incubus of Intervention: Conflicting Indonesia Strategies of John F. Kennedy and Allen Dulles* by Greg Poulgrain (2015).

<sup>5</sup> Study on decolonization of the Pacific region at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/238/49/PDF/N1323849.pdf>

Nations should take this path to right the wrongs committed against the people of West Papua.

- We also urge the United Nations to review the implementation of the 1962 New York Agreement between the Republic of Indonesia and the Kingdom of the Netherlands. In particular, the United Nations implementation of Article 76b and the whole Trusteeship system, the conduct of the UN Officials in West New Guinea from 1963 to 1969, and the implementation of the act of free choice in 1969.
- We urge the Working Group on the People of African Descent to seek the International Court of Justice's Opinion with regard to the implementation of Chapter XII of the Charter by the United Nations in the West New Guinea dispute<sup>6</sup>.

*D. Reparations for the People of West Papua by non-State actors, in particular, the company Freeport McMorran Inc.*

The People of West Papua were treated negatively by the colonizers and multinational companies (MNCs) starting from the 1960s up to date. First, West Papuans were excluded from participation in the handover of West Papua from the Netherlands to Indonesia via the United Nations in 1962. In essence, the entire New York Agreement was organized by four parties namely the Netherlands, Indonesia, the United States of America, and the United Nations excluding the West Papuans. The exclusion of West Papua in the agreement breached the United Nations Charter on Trusteeship.

Second, the Contract of Work agreement signed by the government of Indonesia and Freeport McMorran Inc. in the USA in 1967 excluded West Papuans from participation. The Contract of Work agreement between the American company and the government of Indonesia was signed before the fraudulent UN-supervised vote of 1969 took place, and should therefore be deemed illegal because West Papua was not part of Indonesia at the time of the signing.

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<sup>6</sup> The shift in the legal status of West New Guinea through the Trusteeship system was examined by King and Johnson (2018) which could be found here: <http://wpik.org/a/>

Third, Indonesia's presence in West Papua has been illegal to date because the West Papua people have not consented to allow Indonesia into West Papua in a democratically transparent and acceptable manner.

The consequences of the presence of the Freeport company which operated the biggest open pit mine in the world for the past fifty years on Papuan land have been disastrous (*see report attached by CSOs on Freeport Pollution*). Freeport has been complicit in human rights abuses committed by security forces employed by the company and has engaged in human rights and environmental violations through its conduct at the Grasberg mine in West Papua. Freeport's operations in West Papua have caused severe degradation to the indigenous people's environment and the mining operations have resulted in "cultural genocide" by destroying the Papuans' habitat and religious symbols<sup>7</sup>.

Neither the Indonesian law system nor the American domestic courts have seen fit to recognize the gravity of the damage caused by the operations of this multinational<sup>8</sup>. The West Papuans have no means to complain about this non-State actor, which is only one of many others which are now destroying the land of Papua.

- We urge the Working Group on the People of African Descent to seek the International Court of Justice's Opinion with regard to the legality of the First Contract of Work Agreement between Indonesian and the American company Freeport McMoran, as it was signed in 1967 before West Papuans were presumably asked if they wanted to become part of Indonesia or not.

## E. Important References

1. Drooglever P., (2010), The study commissioned by the Dutch Government was published in a book: *An Act of Free Choice: Decolonisation and the Right to Self-Determination in West Papua*. It is an authoritative history of West Papua up to the controversial takeover by Indonesia in 1969.

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<sup>7</sup> <https://www.business-humanrights.org/en/latest-news/freeport-mcmoran-lawsuits-re-west-papua/>

<sup>8</sup> Cases brought by indigenous leaders against the Freeport company in the United States were dismissed both in federal and Louisiana state courts.

2. ECOSOC, (2013), *Study on Decolonization of the Pacific Region: Note by the Secretariat*, 20<sup>th</sup> February 2013 (E/C.19/2013/12), par. 46-51.
3. Tandamat N, (2022), *Application of the United Nations Framework of Analysis for Atrocity Crimes: The Case of West Papua*. Master Thesis Paper in Conflict, Peace, and Security, United Nations Institute for Training and Research (UNITAR)/Universitat Oberta de Catalonia (UOC). Unpublished. (Attached with this document).
4. King and Johnson, (2018), *West Papua Exposed: An Abandoned Non-Self-Governing and Trust Territory*, Griffith Journal of Law and Human Dignity, Vol. 6, Issue: 2, Griffith University. Available from; <http://wpik.org/a/>
5. Maglangbayan and Moore, "Interview with Ben Tanggahma.", in Quito Swan, *Blinded by Bandung? Illumining West Papua, Senegal, and the Black Pacific* at [https://iah.ucsd.edu/\\_files/research/swan.pdf](https://iah.ucsd.edu/_files/research/swan.pdf))
6. Manifesto First Papuan Peoples' Congress, October 19, 1961. At <http://wpik.org/Src/whosewho.html>
7. Poulgrain G., (2015), *The Incubus of Intervention: Conflicting Indonesia Strategies of John F. Kennedy and Allen Dulles*.

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