

The West Papuan People's Unexercised Right to Self-Determination

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**Briefing paper
February 2021**

ABSTRACT

The indigenous people of West Papua¹ have been under Indonesian rule since May 1, 1963, when West Papua was transferred from the Dutch administration to Indonesia through the *New York Agreement*². According to that agreement, arrangements were to be made for a vote on self-determination to take place in 1969 by the West Papuan people. This paper argues that the internationally upheld right to self-determination of colonized people had been denied to the people of West Papua since that year (1969) because of vested political and economic interests of Indonesia and the international community on West Papua. To rectify the ongoing situation of human rights violations against indigenous West Papuans under Indonesian rule,

¹A note must be made on the use of the term 'West Papua'. The territory has been known by many different names, each of which has its own political connotations. 'West Papua' is the name adopted by separatists and their international supporters and is used here because this briefing document deals with the issue of self-determination and it is an appropriate adoption of terminology in such a context. Other names include West Irian, Irian Jaya etc. and may be periodically referred to in this document.

²*New York Agreement* - In October 1962 Dutch rule in West Papua ended and was replaced by a temporary UN administration (UNTEA), which was established as part of the UN-brokered *New York Agreement*, signed between The Netherlands and Indonesia to resolve their dispute over the territory. (Etan.org)

this paper advocates for West Papua's inclusion on the agenda of United Nations' Committee of 24 (Special Committee on Decolonisation) as way of achieving a genuine act of self-determination³.

CONCEPTUAL BACKGROUND

The concepts of humanitarian and 'social justice' in the post-Cold War era formed the basis for secession for colonized nations. However, humanitarian and social justice ideals are far from being the only considerations in contemporary politics. There are other sociopolitical reasons for self-determination of all colonized people, but in order to achieve that, the term '*realpolitik*' must first be identified and discussed as to how it influenced international politics in our time. 'Realpolitik' is vast and its presence continues to influence international relations in the post-Cold War era – our time, and it also bearing on the issue of secessionism.

Humanitarian and Social Justice Ideals

The key ideas associated with humanitarian and 'social justice' ideals are often used to construct arguments for secession, this includes the principles of *human rights* and self-determination.

Human Rights

Human rights are based on people having rights, claims and obligations by virtue of being humans. There exists a core of fundamental human rights that is universal as it is cross-culturally accepted. For instance, a range of states support the existence of core fundamental human rights by the acceptance and ratification of international conventions, including the two *United Nations (UN) International Human Rights Covenants*, which placed binding legal obligations upon signatories. The core human rights include the right to life, liberty, property, and the right not to be expelled from the place of one's residency. Evidence of violations of such fundamental right helps build concrete legal arguments and strong moral case against abusers, and a tenacious case for the justification of secessionism. The rise of concern for the existence of universal human rights norms is illustrated by the responses of the international community to human rights violations after the "Cold War."

Self-determination

Self-determination has its historical roots in the mid-late 1700s in the idea of popular sovereignty. This concept gained prominence in international law and international relationships following World War II. Its importance, however, increases immensely in areas around the world where people are seeking independence from colonial rule. Despite its presence in international documents, the concept of self-determination is often attacked for lacking clear legal connotations and questions surrounding its definition. The literature on self-determination, common article 1(I) of the *UN International Human Rights Covenants*, provides a widely cited definition of self-determination. It states, "All peoples have the right to self-determination. By virtue of that right they freely determine

³Self determination, in the context of West Papua, is the right of the people to determine their own political destiny without influence from external sources, whether its USA, UN, or Indonesia.

their political status and freely pursue their economic, social and cultural development.”⁴ The rights under modern international law associated with self-determination include, “the right to secede from colonial rule, the right to exercise the supreme power in the territory, the right to adopt a new constitution and the right to a representative government.”⁵ In General Comment 12 on article 1 of the *UN International Human Rights Covenants*, the right to self-determination is of great importance to all people because its fulfilment is the basis for the effective realisation of all individual human rights⁶.

Realpolitik

Also influencing secessionism is the practice associated with the term *realpolitik*. The term dates back to the mid 19th century, which stemmed from the centuries old political theory of “realism.” The politics of realism is inherently amoral and eliminates wishful thinking and sentimentality from political judgements. Ideas associated with realism, including interest, prudence and expediency as the key motivators of states, have dominated thinking in international relations for centuries. The theory dictates that the national interest should guide considerations and application of foreign policy. Policies with limited objectives, but reasonable chances of success are pursued. However, that is not to say that moral and ideological principles cannot and do not ever influence *realpolitik*.

WEST PAPUAN HISTORICAL BACKGROUND

The roots of the issue of West Papuan secessionism today go back to the post-World War II period of widespread decolonisation of indigenous peoples from European imperial empires. With the ‘Charter of Transfer of Sovereignty’ (1949), article 1(I), the Netherlands transferred complete sovereignty of the Dutch East Indies to the United States of Indonesia, recognising it as an independent and sovereign state. However, in article 2, the question of the political status of West Papua was deferred for determination through negotiations between the United States of Indonesia and the Kingdom of the Netherlands within a year of that transfer of sovereignty, with West Papua remaining a territory of the Netherlands up until that point. In this period of negotiations, the borders of the Republic of Indonesia did not include West Papua.

During this period of negotiations over the sovereignty of West Papua, which West Papuan leaders were not consulted, the two sides disagreed on terms and conditions of the transition. Several attempts to find a lasting, satisfactory resolution met only with failure. On one hand, Indonesia insisted that any agreement reached must be explicitly regarded as the transfer of sovereignty of West Papua to Indonesia, which, off course, ignored the very question of West Papua’s right as a colonized people, to self-determination. On the other, the Netherlands believed West Papuans must be accorded the right to self-determination. At this point Indonesia took the stance that with the proclamation of an

⁴Appendix 1: International Covenant on Civil and Political Rights’, in Alex Conte, Scott Davidson and Richard Burchill, eds., *Defining Civil and Political Rights: The Jurisprudence of the United Nations Human Rights Committee*, Aldershot, Algate, 2004, p. 225.

⁵Ingrid Detter De Lupis, *International Law and the Independent State*, Aldershot, Gower, 1987, pp. 13 and 14.

⁶Richard Burchill, ‘Self-Determination’, in Alex Conte, Scott Davidson and Richard Burchill, eds., *Defining Civil and Political Rights: The Jurisprudence of the United Nations Human Rights Committee*, Aldershot, Ashgate, 2004, p. 34.

independent state of Indonesia on August 17, 1945, West Papua too had exercised self-determination as the territory of Indonesia. This argument comprised the whole of the former Netherlands East Indies who were accorded the right to self-determination by virtue of the ‘Charter of Transfer of Sovereignty’. The Netherlands aggressively objected to it, and sought in the last years of its administration of West Papua to make ready the conditions for the people of West Papua to exercise their rights to self-determination. It was the Netherlands’ position that Indonesia and West Papua should not form a single independent national unity, and clearly argued for the rights of self-determination for the West Papuan people. In other words, the Netherlands envisioned two separate independent states sharing with a common border.

The debate occurred during the height of the Cold War tensions and the Sukarno government did the unthinkable; he turned to the Soviet Union to defend its claim on West Papua, the United States of America (USA) intervened and bullied the Dutch government into giving up West Papua to Indonesia for the so-called greater purpose of combating the spread of communism in South East Asia. This line of thing was influenced by the ‘Domino Theory’, which states that if one country in South East Asia fell, the rest would go with it⁷, thus, Indonesia turning to the Soviet was a serious threat to the US interests in the region and that of its allies such as Australia and New Zealand. In 1962, the dispute between the Netherlands and Indonesia over the issue of self-determination for the people of West Papua was sealed with the August 15, 1962 ‘Agreement between the Republic of Indonesia and the Kingdom of the Netherlands Concerning West New Guinea (West Irian).’ This agreement is commonly known as the *New York Agreement* (NYA).

In line with the provisions of the *New York Agreement*, power over the territory of West Papua would be transferred to Indonesia on May 1, 1963, under the condition that Indonesia would make arrangements for an “Act of Free Choice (self-determination)” to take place within six years. By 1963, the Dutch were no longer interested in the territory nor the arrangements for the West Papuan exercise of self-determination. Indonesia was left to fully implement its own ambitions without any contenders in its way.

In fact, the *Act of Free Choice* was a ploy invented to appease the conscience of the Dutch who were unwilling to defend the moral right they asserted for the West Papuans⁸, and the US government who couldn’t afford to lose Indonesia to the Communist. The UN maintained a presence in West Papua, but Indonesia became the only authoritative power in West Papua, with free reign in determining, shaping and reshaping of the territory’s political future.

However, instead of a direct vote such an impartial free *plebiscite meeting*⁹ which is an internationally recognised standard for voting on fundamental issues such as self-determination, Indonesia proposed and implemented a different practice known as *musjawarah*. The *musjawarah* is based on a so-called collective decisions based on unanimous consensus through highly vaguely defined methods in order to achieve its most wanted goal which was to acquire West Papua at all costs. Under this method, 1,026

⁷“The Democratic Domino Theory: An Empirical Investigation” a history investigation by Peter Leeson of George Mason University, and Andrea M. Dean of West Virginia University.

⁸Kees Lagerberg, *West Irian and Jakarta Imperialism*, London, C. Hurst & Company, 1979, p. 3.

⁹Plebiscite vote – “The direct vote of all the members of an electorate on an important public question such as a change in the constitution” (oxforddictionaries.com).

West Papuans out of an estimated population of about a million indigenous West Papuans (814,000 capable voters); a pool of voters, less than one percent of the population of West Papua at the time, were chosen by the Indonesian government to vote. These West Papuans were under Indonesian internment for weeks prior to the *Act of Free Choice* election, and were regularly interviewed to determine who would be reliable enough to express pro-Indonesian views at the assemblies through which the act of self-determination would be conducted. The election took place between July 14 and August 2, 1969, largely in the absence of United Nations observers. The result was highly predictable – it was *unanimous* for the territory of West Papua to become part of Indonesia. The people of West Papua were essentially subjected to the transfer of authority from one colonial power to another without saying a word in the process. Their rights, which are enshrined in the UN Charter, were denied and continued to be suppressed even to this very day.

It is important to note that throughout the period between the *New York Agreement* and the *Act of Free Choice* election outcomes, the West Papuan made it clear that they did not need another colonial ruler; they wanted freedom and ‘self-determination’. The birth of the *Organisasi Papua Merdeka* (OPM) – the Free Papua Movement in 1965, was a West Papuan direct response to increasing discontent with the Indonesian presence in West Papua. West Papuan rebellion and Indonesian counter-insurgency ensued right up to the *Act of Free Choice*, with the Indonesian military deployed to various places in West Papua in an attempt by Jakarta to prevent all West Papuan dissent at the polls. West Papuan leaders were subjected to intimidation, and were left without a choice as to how they should prepare for the *Act of Free Choice*. Those who voted were basically intimidated and were mostly kept away from the preparation process.

Ironically, Fernando Ortiz Sanz¹⁰, the UN Secretary-General’s ‘Representative for West Irian’ during the *Act of Free Choice* election, issued a final report on the outcome, which was carefully worded to portray that election to be “conducted in accordance with Indonesian practice,” but it wasn’t. The whole election was not done in accordance to international practice, as stipulated in the New York Agreement¹¹. Adding insult to injury, the UN Secretary-General endorsed the Indonesian lie that the people of West Papua were represented overwhelmingly at the polls and that they were unanimously on the side of Indonesia, and his report was adopted as a UN General Assembly Resolution (UNR) on West Papua.

The Cold War era saw a continuation of the international denial of the illegitimacy of the *Act of Free Choice*, and the legitimacy of the desire of West Papuans to exercise their right to self-determination. In 1975, with Cold War *realpolitik* influencing international relations and politics, the UN General Assembly (UNGA), once again, decided against allowing the West Papuan people another vote for self-determination.

In 1996, a new kind of struggle emerged. This new struggle was led by one of the educated West Papuans of the post Cold War era, Dr. Thom Wainggai (known mainly by Dr. Thom). He was a West Papuan scholar, lawyer, professor, and political activist with unparalleled knowledge of the internal politics of Indonesia, West Papua, and the

¹⁰Fernando Ortiz Sanz - <http://www.un.org/en/peacekeeping/missions/past/unsfbackgr.html>

¹¹New York Agreement: Agreement Between the Republic of Indonesia and the Kingdom of the Netherlands Concerning West New Guinea (West Irian), *FreeWestPapua.org*, <http://www.freewestpapua.org/docs/nya.htm> (date accessed: 15 March 2006).

international community. He was the first West Papuan to attend university outside of West Papua. He earned his education in West Papua and Japan before being awarded a *Fulbright Scholarship* to study in the United States where he earned his PhD. After he completed his studies in the US, he returned home. He taught and promoted the concept of “nonviolent” approaches to the demands for West Papuan self-determination. He epitomized the advancement of modern West Papuans in terms of educational prowess and political ideology. He transcended the unfair stereotype against West Papuans. His teachings were embraced and pursued by West Papuans alike. Indonesia, however, saw him as a serious threat to its political ambitions and self-created right over West Papuans and decided to take him out of the picture. Dr. Thom was arrested, tortured, incarcerated and poisoned. He died for what he believed in, which is West Papua is not part of Indonesia and West Papuans should be free as a unique people with unique culture. He had planted a seed of nonviolent activism that soon took off in the post Suharto West Papua.

The post Cold War period has seen the revival of active campaigning for West Papuan secession from Indonesia and gaining momentum after the collapse of President Suharto’s government in May of 1998. The end of Suharto’s reign gave birth to a period *reformasi*, which brought about a deep sense of political freedom¹² and the “nonviolent” struggle for independence made serious strides which continues today. For the separatist movement, it was an opportunity to revisit decade’s old unsettled “self-determination” issue. The political wing of the separatist movement took advantage of the post-Suharto political freedom to voice their concerns and take action on their aspirations for independence. This desire for freedom in the new era culminated in the establishment of *Musjawarah Besar Papua*, the Papuan Mass Consultation. On February 23 to 26 of year 2000, the *Presidium Dewan Papua* (PDP), the *Papuan Presidium Council*, claimed a mandate for the West Papuan people to advance their independence struggle and became the primary organisation advocating for the independence of West Papua. The PDP cited a long history of human rights abuses against West Papuans; for instance the murder of Dr. Thom and other leaders of the struggle, but more so – the overdue right to self-determination of indigenous West Papuans. In calling for independence, the second Papuan Congress, which was held on May 29 to June 4, 2000, convened by the PDP, vigorously rejected not only the *Act of Free Choice*, but also the *New York Agreement*, on the basis that West Papuan representatives – and the people – were deliberately excluded in all these negotiations. PDP believed that the *Act of Free Choice* and the *New York Agreement* were legally flawed¹³. In this period, there were limitations to the political freedoms accorded to the West Papuan people. All actions advocating independence were rejected by the Indonesian government on grounds that advocating self-determination violated the commitment of all citizens of Indonesia to the unitary state of Indonesia. The much anticipated freedom and liberation West Papuans anticipated evaporated when Indonesian passed laws outlawing symbols of which the ‘Morning Star’ flag and all other symbols of West Papuan identity and pride were banned in October 2000. Following the enactment of this new legislation, on November 2000, several PDP senior leaders and advisers were arrested: accused of “subversion” and instantly incarcerated. A year later, on November 10, 2001, during Indonesia so-called “Heroes Day” celebration at the

¹²*Reformasi* was the wave of democratic reform in Jakarta and included public calls for military and political reform. ‘Politics’, *Embassy of the Republic of Indonesia – Canberra, Australia – Special Issues: Papua*, http://www.kbri-canberra.org.au/s_issues/papua/papua/htm (date accessed: 23 July 2006).

¹³*Ibid.*

headquarters of Kopassus¹⁴, the PDP leader, Theys Eluay, was lured to the celebration by the Indonesian army where he was.

To appease angry West Papuans, on December 2001, the Indonesian government introduced a bill to develop West Papua with the hope of ending the tension between West Papuans and the military. The Indonesian government introduced a new law called the “Special Autonomy Bill.” Yet, four years later, Indonesia failed to adequately implementing this Act and other associated government regulations. This demonstrated the inability of the Indonesian government to honour its commitment when it comes to West Papua.

A decade later, West Papuans revisited their right to self-determination in a show of unity. In 2011 the people of West Papua organized the third congress where they overwhelmingly voted for the establishment of their own state and government - the *Federal Republic of West Papua*. They confidently elected Hon. Forkorus Yaboisembut, *SPd*, as their president, and Edison Waromi, *SH*, as prime minister of the newly established government. According to West Papuan leaders, the election and the establishment of the federal government of West Papua was done in accordance with the provision of the *New York Agreement* and the ‘*Act of Free Choice*’, which they argued was not fully implemented as required. These West Papuan leaders argued that the *Act of Free Choice* gave them the right to vote on their desire for self-determination. Once again, Indonesia reacted instantly and arrested and imprisoned the two leaders and most of the participants. These two men were charged with "subversion" – the conspiracy to overthrow the state of Indonesia.

It can be seen from this historical background that, although agreed upon by the international community, the basis upon which West Papua was incorporated into Indonesia can be construed as dubious and a major source of the enduring discontent within the West Papuan secessionist community. The international community also questioned the *Act of Free Choice* and its outcome in the post-Cold War era. In late 2005, the Dutch parliament released a scathing report of its thorough re-examination of the *Act of Free Choice* that specifically questioned the legitimacy of Indonesian sovereignty over West Papua¹⁵. As the former colonial administrator of West Papua who refused to give in to Indonesian demands prior to the *Act of Free Choice*, the Dutch government publicly agrees that West Papuans should have been allowed to vote on their own “free will” for independence and that the *Act of Free Choice* didn’t adequately represent the will of the people of West Papua.

THE HUMANITARIAN AND SOCIAL JUSTICE CASE FOR WEST PAPUAN SECESSION

In West Papua, the case of human rights abuse and the lack of social justice since the *Act of Free Choice* was implemented, give adequate justifications for secession. This argument is also based on the application of relevant human rights laws and conventions on the right of colonized people to full self-determination.

¹⁴Kopassus stands for Komando Pasukan Khusus - Special Forces of Indonesia Army.

¹⁵Richard Chauvel, speech delivered at *Australia, Indonesia and the Crisis in West Papua* [seminar], Melbourne, La Trobe Politics Society, 8 May 2006.

Human Rights in West Papua

The fundamental rights of human beings are universally applicable to all societies, as widely agreed upon by various international organizations and governments, and by the virtues shared by all people. The people of West Papua are, by virtue of these agreements, entitled to all those rights as a nation of people with unique culture: language and ethnicity. Yet, over the years, West Papuans have been denied these rights by Indonesia and its international partners. Peter Tabuni, a prominent West Papuan author, quoted by John Martinkus, detailed human rights violations in West Papua, “Their story is here in this document and I write only about what I know or I have seen.”¹⁶ He also wrote about inhumane acts of torture resulted in death, forceful removal or expulsion from homes, rapes, unjustified killings, and massacres committed by the Indonesian military not only against OPM leadership, but also West Papuan the civilian population¹⁷. He was not only an author, but a primary witness to the gruesome human rights abuse against his people. Trust in the accuracy of Mr. Tabuni account of the human rights abuses in West Papua is important because here is a primary source that cannot be denied. In fact, there is only one ‘human rights’ monitoring body, the *Institute for Human Rights Study and Advocacy (ELS-HAM)*, existing in West Papua, but it is under heavy established Indonesian censorship rule, and external human rights investigators have often been refused access. They are subjected to ejection or expulsion from West Papua prematurely. In other words, the stories and information about human rights abuses in West Papua are heavily controlled by the Indonesian government.

Further attempts by the Indonesian government to deny the truths about human rights violations in West Papua, occurred through the detention and harsh interrogation of the leaders of branches of ELS-HAM and legal associations when they issued negative statements about human rights abuses committed by the Indonesian authorities¹⁸. By undertaking these various actions to minimize knowledge of human rights violations in West Papua, the Indonesian government continues to mislead the international community and often got away with it. Not allowing journalists and a fact finding mission to enter West Papua, is a sign that Indonesia is not being truthful in this issue. There should be free access to West Papua if Indonesia has nothing to hide. Unfortunately, that is not the case. In January 2006, claims of severe persecution made by the West Papuan asylum seekers in Australia were denied by an Indonesian embassy spokesman even when faced with facts and evidence; people who lived through the horror of Indonesian rule. The stories of these asylum seekers in Australia were highlighted in the media. As a result, the Australia had no choice but to grant them temporary protection visas, and by accepting these asylum seekers under refugee status, however, the Australian government somewhat acknowledged their claims of severe persecution to be genuine. These two major concerns were widely discussed by those asylum seekers who were interviewed by the Australian media, such as *The Age*, making it easier to tell the Australian general public of the human rights violations in West Papua, which further solidified the moral justification for West Papuan cessation from Indonesia and future aspirations.

In the documentary *Blood on the Cross*, West Papuans asserted and supported Tabuni’s accounts through their own experiences with the Indonesian military. These civilians

¹⁶Peter Tabuni quoted in John Martinkus, ‘Paradise Betrayed: West Papua’s Struggle for Independence’, *Quarterly Essay*, Iss. 7, 2002, p. 14.

¹⁷*Ibid.* pp. 14-16.

¹⁸Martinkus, *op. cit.*, p. 55.

talked about the suffering they and their relative suffered regularly through Indonesian military reprisals, including killings, rapes, and tortures. The Indonesian military committed these horrible crimes mainly against those advocating for independence¹⁹. It is, therefore, reasonable to conclude that the constant abuse of human rights in West Papua serves the purpose of the Indonesian authorities, whose mission is to deliberately undermine the West Papuan independence movement through violent means. Tabuni explains, “They (Indonesia) fight us because we do not agree with their program.”²⁰ Indonesia depends entirely on the exertion of excessive force throughout the territory to keep the civilian population in total subjection. However, this policy has in turn galvanized support for the pro-independence movement, but it also adds a cyclical pattern to the abuse of human rights²¹. The scale of the violation of human rights in West Papua makes a compelling moral claim for secession of West Papuan from Indonesian.

West Papua and the Right to Self-Determination

To begin with, the term self-determination is unclear on areas such as who is entitled to these rights and how these principles should be applied to the cause of West Papua. However, central to the question of sovereignty in West Papua is determining whether West Papuans constitute ‘a people’ – a nation – to which the right to the concept and application of the term self-determination applies. As stressed above, Indonesia acquired West Papua under controversial circumstances. For instance, the *New York Agreement* established that the indigenous people of West Papua constitute an eligible group of people for the articulation of freely expressed political will in accordance with international practices, through the exercise of the right to self-determination²². This was a decision (the acquisition of West Papua) made on behalf of the West Papuan people by both the Netherlands and Indonesia with the support of the international community through the UNGA. Thus, the agreement appeared to have some closure for the people of West Papua on the issue of ‘self-determination’. That contradicts the historical account of the facts that West Papuans were not given full rights to exercise on the day of the ‘Act of Free Choice’ election. Fact is, West Papuans constitute “a people” with the right to exercise self-determination. It was understood that provisions were made for a date to be set for the actual exercise of self-determination by the West Papuans themselves²³. That, however, failed to materialize. The West Papuans denied rights to vote during the 1969 *Act of Free Choice* remains a hotly contested issue to this day. If the *Act of Free Choice* was held in the name of West Papuans, they should have all voted freely for the issue of self-determination, but that was not the case. The whole thing was evidently staged and controlled through the use of bribes and military force as many West Papuans who participated in it later testified to this.

¹⁹Mark Davis (Writer, Reporter and Producer), ‘Blood on the Cross’, *Four Corners* [Television Series: episode screened Ch ABC, 1999], Australia, ABC, 1999.

²⁰Peter Tabuni quoted in Martinkus, *op. cit.*, p. 13.

²¹Richard Chauvel, speech delivered at *Indonesia and Australia: Why the Issue of West Papua won't go away* [seminar], Melbourne, The Australian Institute of International Affairs, 22 February 2006.

²²‘New York Agreement...’ *op. cit.*

²³*Ibid.*

In 1969, the US Embassy in Jakarta noted the following – “Personal political views of the UN team are [that] 95 percent of Irianese support the independence movement and that the *Act of Free Choice* is a mockery.”²⁴ It was the first primary source of evidence from an independent foreign entity that the *Act of Free Choice* was not properly executed. The response of the Western press at the time of the coerced election was equally critical; pointing out that West Papua had not exercised anything near genuine self-determination through the *Act of Free Choice*²⁵. The media back then seemed to agree that the *Act of Free Choice* election was a total sham.

However, the entire 1969 election was created to serve only the Indonesian government, not West Papuans. For instance, the practicality of the method chosen by the Indonesian authorities worked only in their favour. During colonial era, little physical infrastructure was established in West Papua by the Dutch government, as the territory was perceived to be a mere frontier region not worth developing. And up to the mid 1950s, the Dutch administration put little effort into the political development of West Papuans, believing they would have a presence in West Papua for at least another generation. The Dutch attempts at preparing the West Papuan people for self-government were implemented in haste. Everything was implemented in the last two years of its rule in West Papua. Within two years, in a territory with little infrastructure, the Dutch administration was unable to politically educate the entire adult population of West Papua to a practical level for the implementation of a plebiscite vote on the issue of self-determination. This, compounded by the tight political control by the Indonesian administration in 1963, did not make for an ideal political understanding amongst the West Papuan people on the context of and options in the *Act of Free Choice*. With poor access to the population and the low level of education and lack of awareness on the part of West Papuans, and the costs and logistics involved in conducting the act of self-determination “in accordance with international practice,”²⁶ namely ‘one person one vote’ system of a plebiscite election, it was profoundly impractical for indigenous West Papuans to affect the outcome of the vote. In other words, the six year time-frame layout by the Indonesian government was not enough a period for West Papuans to prepare. These same impracticalities persist to some degree, today. Most of West Papua population today remains isolated, with its nomadic tribes numbering around 19,000 people and the same problem their older generations encountered in 1969 can still be seen today. For instance, these people have the most languages of all Indonesian provinces combined, and live in physically inaccessible communities in the hinterland and mountain areas.

In spite of the numerous reasons as to why the 1969 *Act of Free Choice* should have never been organized or implement; including the difficult social, political, and geographical conditions in West Papua in 1969, Indonesia did it best to make sure it was implemented. After the implementation, Indonesia used clever words to portray the *Act of Free Choice* as an expression of the desire of the people of West Papua to be part of Indonesia. It also suggested that the people of West Papua had twice expressed that desire; not only in 1969

²⁴Anthony Balmain newspaper article quoted in Saltford, *The United Nations and the Indonesian Takeover of West Papua, 1962-1969: The Anatomy of Betrayal*, London, Routledge Curzon, 2003, p. 134.

²⁵Saltford, *op. cit.*, p. 167.

²⁶‘New York Agreement...’ *op. cit.*

but also in 1945 with the Indonesian Proclamation of Independence²⁷. These claims apparently didn't meet international standards, and that Indonesia deliberately ignored and violated the December 1, 1962 "declaration of independence of the sovereign state of West Papua," by the West Papuan people themselves. It was a time when the Dutch and West Papuan flags flew side by side. One can argue that this declaration of independence was the rightful, legitimate expression of self-determination by the entire West Papuan people. They have had nothing to do with Indonesian claim after 1969 election²⁸. Indonesia's claim that West Papuans voted to cede their lands and resources to Indonesia is fundamentally weak morally, logically, and legally. The true advocates for the West Papuan self-determinations are West Papuans themselves, and they wanted full right to choose their own political destiny. They were, however, denied that right by Indonesia. In other words, the wishes for a genuine consultation on the wishes of the West Papuan people, as the legitimate representatives in 1969, were successfully thwarted by Indonesia.

How the sham election worked

Prior to the election of 1969, the Indonesians supported the right of self-determination for West Papuans, using language associated with it merely to show the world its position in the debate on West Papua's political status. They put more efforts and expenses needed to conduct such an exercise of self-determination according to internationally recognised standards, knowing full well that the outcome could appear legitimate under international and domestic scrutiny.

The only acceptable act of self-determination on the viewpoint of West Papuan people is one that, not only represent the desires of the entire population of West Papua, but one that is also acceptably done according to international standards. In the view of West Papuans, the simple provisions of the *New York Agreement* were not honoured, or they were not properly implemented. For that reason alone, the *New York Agreement* remains a legal issue that has bearing on West Papuan secession claim. The question is will the people of West Papua be allowed to exercise that right in the future.

This paper argues that the only legitimate mean for ensuring the West Papuan people's undeniable rights to self-determination are fully exercised, is by putting the West Papuan case on the agenda of the United Nations Committee of 24: Special Committee on Decolonisation, considering West Papua as a territory yet to be decolonised; officially recognising it as a 'Non-Self-Governing Territory'; and facilitating negotiations between Indonesia, as the administering power, and the people of West Papua in accordance with the relevant "UN Resolutions" on decolonisation.

The Discord between the Existence of Humanitarian and Social Justice Ideals and the Progress of West Papuan Secessionism

The moral and legal principles found in many international conventions and laws justify secessionist movement in West Papua. It would seem then that, with the post Cold War

²⁷Papuans Need Democracy Not Separatism', *Embassy of the Republic of Indonesia – Canberra, Australia – Special Issues: Papua – News on Papua (August 2004)*, http://www.kbri-canberra.org.au/s_issues/papua/htm (date accessed: 23 July 2006).

²⁸The first was the declaration of independence of Indonesia in 1945, which West Papuans had no part in it, and the later was the 'Act of Free Choice' of which a fraction of West Papuans were handpicked, coerced and forced to vote favourably for West Papua.

increase in influence of humanitarian and social justice ideals in international politics and through their application, the case for West Papuan secessionism must also be realized. Yet, little, if any, progress has been made toward the desire for West Papuans for secession from Indonesia in the past fifty years since Indonesian annexed the territory. The moral and legal reasons to act on secessionism exist, but there has been no action. There is, therefore, discordance between the existence of humanitarian and social justice ideals in politics today, and the status of West Papuan secession and aspirations. This discordance can be explained by the fact that concepts associated with humanitarian and social ideals are not the only considerations in contemporary politics; *realpolitik* plays a huge role in influencing it. Although there has been a notable rise in the presence and influence of humanitarian and social justice ideals in today's international relationships, the influence of *realpolitik* on the states remains strong and visible. Because of that, the presence of moral and legal principles in the political consciousness in the world does not mean they automatically influence the behaviour and policies of states. *Realpolitik* is on the foreground, impacting and influencing political situations and cultural evolution. This is true in the case of West Papua.

INDONESIAN *REALPOLITIK* CONSIDERATIONS

To further explore the discordance between the existence of the justifications for West Papuan secessionism, based on humanitarian and social justice ideals, and the political stagnation of West Papua's secessionist demands, the national interests of Indonesia must be examined to determine depth of the influence of *realpolitik* on this issue.

Indonesia and West Papua

The province of West Papua holds economic, ideological, and nationalistic interests that are deemed important to different influential actors within Indonesian society and, therefore, influencing Indonesian *realpolitik* considerations in dealing with secessionism in the territory²⁹. In fact, West Papua is extremely important to Indonesia on a socioeconomic and political standpoint. So-called *realpolitik* compromises every opportunity for a meaningful dialogue on West Papua's desire for secession from Indonesia. In the view of *realpolitik*, the economic interest supersedes any moral obligation from Indonesia to honour West Papuans right to self-determination. To put it in simple terms – West Papua is too higher a price to pay, therefore, secession is not a choice.

Politics within Indonesia

Indonesia is a highly centralized system of government. Indonesia has a history of increasing political centralization since its independence in 1945, and aggressive stifling of separatist sentiments within the resource rich provinces of the outer lying islands³⁰. The entire political spectrum represented in the makeup of Indonesia's contemporary parliament, considers West Papua to be an integral part of Indonesia, as does the Indonesian military³¹. Despite the promise of *reformasi*³², (the post Suharto Indonesia) the military maintains a tremendous influence on Indonesian politics and government

²⁹Indonesian national interests are not discreet points but will be dealt with separately for the purposes of analytical clarity.

³⁰Alan Whittaker, *West Papua: Pludner in Paradise*, Anti-Slavery Society, 1990, p. 84.

³¹Chauvel, *Australia, Indonesia and the Crisis in West Papua*, op. Cit.

³²Reformasi – reformation which began after the fall of Suharto.

institutions, especially security matters through *dwifungsi*, its dual role: defence against external attack and, particularly important in this instance, its internal security role³³. The Tentara Nasional Indonesia (TNI) – Indonesian National Army – uses its internal functions to maintain control throughout Indonesia, particularly in West Papua. Military influence in Indonesian politics means that the Indonesian parliamentary parties have yielded to the military’s insistence that a rigorous approach is needed to rescue the Indonesian nation from secessionists³⁴. Unlike many Democratic systems in the world today where military power is concentrated on a particular department or ministry, and only act when required by the government, the Indonesian government is a military regime; the military and the government are inseparable.

Economic Interests

West Papua is rich in natural resources. Indonesia has been extracting minerals since occupying West Papua in the 1960s and continues to do this day. The mineral, oil, and timber; the natural resources of West Papua have been extracted, not only by Indonesian businesses, but also by multinational corporations in partnership with Indonesian partners. By allowing foreign businesses into the territory, the fate of the territory is bound to wider economic interests and additional actors that favour stability in the region and thereby supporting Indonesian sovereignty over West Papua³⁵. The exploitation of much of West Papua’s natural resources by foreign corporations is linked to both the Indonesian government and its military complex. The best known foreign corporation in West Papua is *Freeport-McMoRan Copper & Gold Incorporated*³⁶, and for the purpose of this paper, this mining company is referred to as “Freeport”. *Freeport* is one of the most lucrative mining operations in the world. In 2006, Freeport was the largest single taxpayer in Indonesia; contributed over US \$100 million³⁷ annually to the Indonesia government³⁸. Consequently, an Independent West Papua would mean the loss of a significant economic asset for the Indonesian government, which is why TNI tightened its control of West Papua over the years. The protests occurring in late February 2006, which linked to the West Papuan struggle for greater autonomy, called for the closure of the Freeport operation, sparked instant outrage in the Indonesian government. The Indonesian President, Dr. Susilo Bambang Yudhoyono, immediately intervened for fear that the protests would drive away, not only Freeport, but also future foreign investors and businesses. While quick to intervene on behalf of Indonesia’s economic interests, President Yudhoyono simultaneously faced criticism for his failure, four years later, to implement the 2001 *Special Autonomy* deal for West Papua³⁹, which is evidence that

³³West Papuan (and other) secessionists are considered to be internal enemies of the Indonesian state and thus help to explain the existence of *dwifungsi*.

³⁴Peter King, *West Papua & Indonesia since Suharto: Independence, Autonomy or Chaos?* Sydney, University of New South Wales Press, 2004, p. 97.

³⁵Although companies could potentially remain in business with a change in the political status of West Papua, business tends to prefer the status quo. Particularly with the uncertainty that change in political situations can bring in which the economic climate, and thereby profits, can be damaged.

³⁶To be referred to as Freeport or the Freeport Mine from here on.

³⁷\$100 million USD is approximately IDR 145 billion.

³⁸Mark Forbes, ‘Papua row could scare off investors, Yudhoyono warns’, *The Age*, 4 March 2006, p. 18.

³⁹*Ibid.*

giving West Papua some degree of political independency – autonomy, was not the priority of Yudhoyono and his government.

The TNI is believed to be a principal beneficiary of resource exploitation in West Papua⁴⁰. In addition to its role in maintaining Indonesian authority in the West Papua and other outliers, the military presence in the territory now concerned for the economic opportunities for the TNI⁴¹. It is a fact that TNI has much influence over the mine and also benefits economically from it⁴². As such, the military's close relationship with Indonesian government's economic sector is often used as a reason to fortifying Indonesian unity⁴³ at the expense of land owners of West Papua.

Ideological and Nationalist Interests

Indonesian nationalism is a significant development in Indonesia as a response to West Papuan secession claims. With over 17,000 islands spread over more than 5 million square kilometres of territorial seas, the state of Indonesia is not well integrated. Socio-culturally, the people of Indonesia are notably heterogeneous⁴⁴. With the potential for conflict between the different ethnic groups. A successful insurrection within these different ethnic groups could cause the disintegration of the state. The difficulty facing the Indonesian government is maintaining harmony amongst the different socio-cultural groups while preserving the territorial integrity of Indonesia, which is achieved through various principles of unity and solidarity⁴⁵. In some cases, suppressing people's right, coercing them to accept an identity they didn't ask for, are often done in the name of national unity.

The Indonesian concept of nationhood is described in this phrase *Bhinneka Tunggal Ika* - the idea of unity in diversity⁴⁶. It is widely believed that TNI is the central force of unity in Indonesia and that it often used extreme measures to maintain control over West Papua for the purpose of maintaining the integrity of the unitary republic⁴⁷. Even if it means violating the human rights of indigenous West Papuans, and when confronted with this, the Indonesian government claims to be merely combating threats to West Papua's post-1962 status. It is sufficient to say that TNI is the main obstacle against the self-determination aspirations in West Papua⁴⁸.

⁴⁰King, *op. cit.*, pp. 95 and 113.

⁴¹*Ibid.* p. 113.

⁴²*Ibid.* p. 121.

⁴³The author Peter King suggests this is done through businesses that finance secessionist suppressing loyalist and *jihad* militias. *Ibid.* p. 123.

⁴⁴Heterogeneous – meaning, a nation of so many ethnic groups.

⁴⁵Rudini, 'Indonesia's political future: An Indonesian perspective', in Colin Brown, ed., *Indonesia: Dealing with a Neighbor*, St. Leonards, Allen & Unwin, 1996, p. 66.

⁴⁶*Ibid.* pp. 66-67.

⁴⁷King, *op. cit.*, pp. 95 and 113.

⁴⁸*Ibid.*

On June 1, 1945, as leader of the *Indonesian Nationalist Movement*, Sukarno made a speech in which he introduced the concept of *Pancasila*, the idea of forging a national identity specific to the Indonesian people and above individual group's interests. Sukarno stated, "This is what we must all aim at: the setting up of one National State upon the unity of one Indonesian land from the tip of Sumatra right to Irian!"⁴⁹ With President Sukarno's focus on nation building and the Indonesian triumph in its international conflict with the Dutch over West Papua, West Papua becomes and remains a trophy of Indonesian nationalism and a symbol of greater Indonesia⁵⁰. Due to their historical roots in forging of the Indonesian nation, the sentiment associated with, and concern for, issues of unity and solidarity are dominant and persistent elements in Indonesian political culture⁵¹. It is indeed the guiding principle of national identity that governs national political issues even decades later. In his 1996 Independence Day speech, President Suharto, who succeeded President Sukarno, stated, "that Pancasila is the sole basic principle of our life as a society, nation and state."⁵²

Following East Timor's independence, the Indonesian public was wary of the possibility of national disintegration and total collapse of their country. In August of 2001, a nationwide poll revealed that 62 percent of the Indonesian public opposed independence for Aceh and West Papua⁵³. The TNI used this political atmosphere to re-legitimize itself as the only political force able to defend Indonesia against secessionism⁵⁴. This thereby consolidated the TNI's justification for retaining a significant military presence in West Papua, overshadowing any ample economic reasons to stay.

In short, for various reasons and various beneficiaries the economic potential of West Papua and its place in concepts of Indonesian unity and integrity are central in shaping Indonesian *realpolitik* when considering its stance in relation, and in this case opposition, to West Papuan secessionism. Indonesia's international allies have also found it profitable to support Indonesian unity, as a positive relationship with Indonesia represents the potential economic rewards of a large export market and physical resource exploitation. Conversely, support for West Papuan secession and defence of the right of self-determination and human rights are not economically profitable, as West Papuans are comparatively economically weak and few⁵⁵. Governments appear unwilling to sacrifice any economic trade for the sake of taking a genuinely principled position when it comes to humanitarian and social justice reasons for West Papuan self-determination.

⁴⁹Sukarno, 'The Birth of Pantja Sila' [speech], in *The Indonesian Revolution: Basic Documents and the Idea of Guided Democracy*, The Department of Information Republic of Indonesia, 1960, p. 40.

⁵⁰Chauvel, *Australia, Indonesia and the Crisis in West Papua*, *op. Cit.*

⁵¹Rudini, *op. cit.*, p. 68.

⁵²Soeharto, *Address of State by H.E. The President of the Republic of Indonesia Soeharto Before the House of the People's Representatives on the Occasion of the 51st Independence Day, August 17th*, Jakarta, Department of Information Republic of Indonesia, (delivered) August 16, 1996.

⁵³Poll cited by King, *op. cit.*, p. 165.

⁵⁴King, *op. cit.*, p. 115.

⁵⁵Whittaker, *op. cit.*, p. 83.

West Papuan independence activists perceive the defence by the international community of Indonesian sovereignty over West Papua to be an economic struggle. The defence on the view of indigenous West Papuans is often determined by the profits ready to be reaped from West Papuan resources⁵⁶. When such questioning occurs, the relationships with Indonesia is subject to strain because the dual authorities within Indonesia hold territorial integrity dear and Indonesia's receptivity to foreign businesses may be altered. As the *Anti-Slavery Society* puts it, "The resources of West Papua explain international apathy towards the struggle of the [West] Papuan people for self-determination. Indonesia has 'sold' West Papua to multi-national interests with the aim of gaining tacit support for its occupation⁵⁷. The West Papuan secessionist movement, then, has to compete against the strength of national ideology and economic interests that are aggressively defended by the Indonesia through its military. West Papua also has to contend with the interests of external actors, both governments and businesses, and their willingness to defend the economic interest in West Papua.

West Papuan advocates of self-determination recognize the factors influencing *realpolitik* in the international community. However, it is argued here that the political, economic, ideological and nationalistic concerns of the Indonesian government are illegitimate in their application to the territory of West Papua because of the questionable sham election of 1969. And the ultimate right to determine the political status and pursue economic, social and cultural development within the territory of West Papua belongs to the indigenous peoples of West Papua as enshrined in common article 1(I) of the *UN International Human Rights Covenants*.

Indonesian occupied West Papua illegally

In 1948 the United Nations passed the *Convention on the Prevention and Punishment of Genocide* which sought to protect four groups of peoples, namely the *national, ethnic, racial or religious groups*. This convention laid down the framework for colonized people to get their own self-determination. Most colonies in the Pacific gained their independence including our neighbor, Papua New Guinea. In 1969, however, Indonesia occupied West Papua using a sham election, in which 99% of West Papuans weren't allowed to vote.

Why West Papuan self-determination matters

Indigenous West Papuans are ethnically, racially, culturally, and religiously different to the Indonesian people. The only thing West Papuans and Indonesians had in common was a common colonial master, the Netherlands. And it was this reason that their former colonial power wanted West Papua to become an independent state of their own. But before that proposal materialized, Indonesia – with the help of the UN – annexed West Papua and has been occupying it to this day.

⁵⁶Martinkus, *op. cit.*, p. 10.

⁵⁷Whittaker, *op. cit.*, p. 72.

Slow genocide

The majority of West Papuans rejected this occupation and instead of trying to understand their concerns, Indonesia turned West Papua into a military occupied zone – one of the largest military occupations in the world.

For more than five decades, those who spoke up against Indonesia, peacefully or otherwise, were either jailed for decades or executed by the Indonesian military and police. It is estimated that over half a million indigenous West Papuans have been killed by the Indonesian government since the occupation began in 1963. Many scholars who are familiar with the occupation of our land call the killing of indigenous people a “Slow-motion genocide.” The occupation and the militarization of West Papua is something that the world outside of West Papua doesn’t seem to even care about.

The history of Indonesian brutality in West Papua over decades is well documented by scholars, religious leaders, and our indigenous people. The establishment of ‘Social Media’ makes it possible for the world to see the truth about this occupation and genocide. And it is the responsibility of all freedom-loving people in the international community to help stop this. The data are there for them to see.

The illegal actions of the Indonesian government is a well known issue, so how long must we wait for justice while Indonesia slaughter our people with impunity? Isn’t fifty years of brutality not enough for someone to notice? The question that is more relevant to this context is – what is the role of the United Nations be regarding West Papua?

Equal application of ‘peacebuilding’

Today, so much attention is currently given to the political situation in Syria, how about giving equal amount of attention to the suffering people of West Papua in the hands of Indonesia? We have been struggling for freedom and justice under the brutal regime of the military of the Indonesian state for more than five decades, and yet the powerful UN is pretending everything is okay.

Knowing the history of the Indonesian state’s Army and Police invasion of West Papua, we can all say that the Indonesian menacing attitude won’t change. More people will die, thousands will be thrown in jail and the body count will continue. And it is appalling that certain people could set the UN leadership in motion, but when it comes to West Papua, they yawned. Last year about a hundred West Papuans have been murdered and so far no one is allowed to visit West Papua, while Indonesian leaders are allowed to participate in discussions on national security, freedom, and human rights issues. Recently, at the United Nations Security Council (UNSC), Indonesia accused Israel of the things Indonesia is doing in our own backyard – occupying and suppressing indigenous West Papuan rights!

CONCLUSION

The nature of Indonesian claim of sovereignty over West Papua could not have been solidified, or achieved, without significantly violating the human rights of West Papuans. The Human Rights laws and covenants were purposely ignored to give Indonesia what it wanted – West Papuan lands and resources. Indonesia recognized the needs to exerted massive military operations throughout West Papua and other outliers in order to maintain control over the population, as such, more innocent West Papuans were murdered to keep Indonesia’s presence in West Papua alive. By supporting West Papuan human rights complaints, the international community rejected the nature of Indonesian sovereignty

over West Papua and *ipso facto* the way in which West Papua was integrated in to the nation Indonesian. On the contrary, to support Indonesian claim over West Papua also means the international community accepted, or is perfectly fine with the tremendous killings of hundreds of thousands of innocent West Papuans to maintain the status quo, and the continuous violation of human rights committed by TNI on behalf of the state – Indonesia – since the 1960s. Indonesia and the international community cannot have it both ways; Indonesia sovereignty over West Papua was achieved through human rights abuses and deliberate violation of international conventions, and the international community cannot ignore that.

International relationship is a crucial part of this modern globalized world, but one that cannot be left untouched or ignored by the UN. The UN should play a hand in fostering global peace and improving the relations between nations and their people, and it must not selectively enforce its will. It must be fair in pursuing global peace – meaning, peace keeping cannot be carried out in certain parts of the world while others are ignored. I believe that people's dignity and their culture, as well as the laws of God and of the secular world are essential pillars, are crucial to the West Papuan independence and self-determination. Our struggle for independence is tragic – a drama born from the bosom of the Cold War, and one that many people simply ignored. Unrestricted military dictatorship, greed and corruption are among some of the reasons why people sit back and just watch without lifting a finger to ensure precious lives are protected. The struggle to end a colonial era, and the apparent indifference in the Indonesian public and international community is a green-light for Indonesia to continue its illegal actions. With the interests of human rights in relation to *realpolitik* considerations in the territory of West Papua, the case for self-determination is urgent and should be put on the agenda of the UN Committee of 24: Special Committee on Decolonisation, to facilitate the process of enacting the indigenous people of West Papua's fundamental and foundational right to self-government. That is the right accorded to all free people; that is to determine their own political future and human destiny. To ignore this is to condone the human rights abuses of West Papuans, because that is the only way for Indonesia to control the indigenous people of West Papua – by deadly force. Coercion is part of Indonesian policy in West Papua and it must be condemned and investigated.

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