**Solidarity for Indigenous Papuans’ Response to the Call for Input by the Office of the High Commissioner for Human Rights**

 **OHCHR: 17/4/2023**

**Introduction**

1. Solidarity for Indigenous Papuans (SIP) is a network of NGOs and activists within West Papua. It aspires to address human rights and climate change within the indigenous West Papuan communities and advocate for solidarity and support through its existing national, regional, and international NGO networks.
2. This submission highlights the non-responsive behaviour of the Government of Indonesia and other parties that have, in one way or another, contributed to the historical abuse of the people of West Papua who are of African descent. The Solidarity for Indigenous Papuans is concerned about the way the Indonesian Government completely ignores the implementation of UN General Assembly resolution 68/237 and requests the Office of the High Commissioner for Human Rights to continue to inform the Indonesian Government to do the needful.
3. The people of West Papua believe that (1) Indonesia, (2) the Netherlands Government, (3) the United Nations, and (4) Freeport McMorran Inc. have, in one way or another, contributed to their historical abuses up to the present, and expect these four responsible parties to publicly acknowledge their actions and apologize to the people of West Papua including the implementation of resolution 68/237.

**Part I: The Parties that contributed in one way or another to colonizing and abusing the people of West Papua over the years since 1962**

1. **The Netherlands Government**

The Kingdom of Netherlands was the former colonizer of the then Netherlands New Guinea (current Papua and West Papua provinces of Indonesia), the Western half of the Island of New Guinea, from 1898 to 1963, when the territory was transferred to Indonesia via the United Nations[[1]](#footnote-1). Before the unfortunate transfer process in 1962-1963 occurred, the Netherlands Government, in response to the UN General Assembly resolution 1514 of 14th December 1960 on the granting of independence to colonial people and territories initiated the decolonization process for West Papua officially on 1st December 1961.

This constructive arrangement between the Indigenous people of West Papua and the Netherlands in 1961 led to the establishment of an embryo state of West Papua under UN resolution 1514 (XV) of December 1960. This arrangement between the indigenous people of West Papua and the Netherlands Government was a trusteeship arrangement according to the UN Charter Chapter XI and subsequent UNGA resolution 1514 of 14th December 1960. It was meant to be a “sacred trust” Article (73) entrusted to the administering authorities that were not meant to be broken[[2]](#footnote-2).

The barrier preventing the Netherlands from fulfilling its duty of decolonizing the indigenous people of West Papua was its sudden decision in 1962 to transfer West New Guinea to Indonesia via the United Nations. The Netherlands government failed to keep its part as a colonial power and a civilizing agent to the people of West Papua, abandoning the Indigenous people of West Papua at the beginning of the journey, which Indonesia violently suppressed. The Dutch Government did not fulfil its obligations in the sixties as the previous colonizer of West Papua and is responsible up until today for the harm that the new colonizer is causing: 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 its role in the debacle of 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[[3]](#footnote-3), 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 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 cooperating with the other responsible parties.

1. **The Republic of Indonesia**

Indonesia invaded West Papua by force in 1961 under three peoples’ command operations known at the time as (Operasi Trikora). It 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 people by the Indonesians to justify their killings[[4]](#footnote-4).

When Indonesians came into West Papua, they killed or imprisoned the educated elites of the area, burned the books, schools, and health facilities, ransacked the contents, and used them or sold them in Jakarta for profit, leaving the West Papuans with nothing[[5]](#footnote-5). 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 development sectors, from physical to psychological, cultural, economic, and political. It is a genocidal regime that the Indonesian Government has implemented since the 1960s up until today[[6]](#footnote-6). The Indonesian Government needs to acknowledge its abuses and right the wrongs committed against the people of West Papua.

1. **The United Nations**

The United Nations involvement in the West New Guinea saga was between 1962 and 1969 through the implementation of the 1962 New York Agreement. The UN’s role was to accept the responsibility conferred to it through the joint draft resolution submitted by Indonesia and the Netherlands in the General Assembly[[7]](#footnote-7).

The agreement mentioned in Article II of the establishment of a “Temporary Executive Authority” known as the United Nations Temporary Executive Authority (UNTEA)36 to administer (Article V) for a period and then transfer to Indonesia, which the UN did not entirely keep[[8]](#footnote-8).

King and Johnson (2018) alleged that the 1962 New York Agreement was a ‘Trusteeship Agreement’ that transferred the legal status of the Netherlands New Guinea from the ‘Non-Self-governing’ territory of the Netherlands to the ‘Trust territory’ of the United Nations. That is because the pathway applied to transfer the territory to the UN was through the trusteeship pathway as per the UN Charter and no other way. Now, for the UN to transfer the territory to Indonesia, the UN has to follow the same pathway, which has no legal basis. The only option was through Article (76b) to grant ‘self-government or independence’ to West New Guinea. The UN did not follow the channel as per Article (76b), which was a clear breach of the United Nations Charter.

During the implementation of the New York Agreement, the UN did not fully implement its mandated tasks and also failed to uphold the principles enshrined in the UN Charter and ideals of democracy, resulting in the unfair treatment and abuse of the people of West Papua at the time. The effect of those actions has led to the genocide of the people of West Papua, which Indonesia continues to commit up to the present. The UN needs to acknowledge this mistake and right the wrongs committed against the people of West Papua along with other responsible parties.

1. **Freeport McMorran and the Involvement of the United States in West Papua**

The USA’s involvement in West Papua was through the contract of work signed between the Republic of Indonesia and Freeport McMorran Inc. in 1967, a business agreement[[9]](#footnote-9). It was signed without the participation of the indigenous people of West Papua before the 1969 Act of free choice. The agreement might have been the motive behind the USA’s undivided support to Indonesia up to the present. West Papua indigenous people consider this a violation of their human rights. The natural resources found in the territory of West Papua belong to the people of West Papua. The Indonesian Government should have consulted with the people of West Papua to fulfil the obligation of ‘free prior and informed consent’, but that did not happen. The American Government played a pivotal role in drafting the New York Agreement through to the implementation, which the people of West Papua believe that it should publicly acknowledge and apologize for its part.

The American Government and its Central Intelligence Agency (CIA), 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[[10]](#footnote-10). As such, the American Government and Freeport McMorran 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 cooperating with the former and present colonizers of West Papua.

**Part II: Measures Taken by the Parties to Implement UN General Assembly Resolution 68/237 in West Papua**

1. **The Netherlands Government**

We acknowledge that the Netherlands government has apologized several times for its colonial past in Indonesia; the latest was on 17th February 2022 by Prime Minister Mark Rutte[[11]](#footnote-11). The people of West Papua expect the Netherlands Government to identify West Papua as a separate entity outside of Indonesia worthy of recognition. The Netherlands government knows very well that West Papua people have their own historical experiences different from the Indonesian people, which cannot be mixed. The Netherlands Government committed human rights violations against the people of Indonesia but not the people of West Papua. The Netherlands Government neglected West Papuans during the process of decolonization, which is different from the Indonesian case. The people of West Papua expect the Netherlands government to acknowledge and apologize to the people of West Papua separately and to right the wrongs committed against the people of West Papua.

1. **The United Nations**

The United Nations has not officially acknowledged and apologized to the people of West Papua concerning its actions in West Guinea between 1962 and 1969. The UN might pass the bark to the state parties involved at the time, but as a respected institution that claims to uphold the principles of human rights, justice, and democracy, it has to live up to its ideals. The UN needs to investigate what happened at the time through the Office of Internal Oversight Services (OIOS) to identify the mistake made to the people of West Papua and take steps to right the wrongs committed against West Papua people.

1. **The Republic of Indonesia**

The Government of Indonesia has not officially acknowledged its abuses in West Papua in line with resolution 68/237. Indonesia continues to play a victim card to ensure the Netherlands government apologizes to Indonesia but does not see the West Papua people’s case as a problem. There are no reparations, public acknowledgement of abuses, truth-seeking measures, or any other measures that aim to end the suffering of the people of West Papua implemented by the Indonesian Government. Articles 45 and 46 of the Special Autonomy Law allowed the Truth and Reconciliation Commission to be established. Still, up till now, there has been nothing established in West Papua to address the issues.

The extension of the Special Autonomy Law in 2021 was one-sided without the participation of the people of West Papua. The Indonesian Government failed to enable the participation of the people of West Papua and has continued to suppress the voices of the people of West Papua ever since.

1. **Freeport McMorran and the USA**

There has been no public apology from the USA Government or the Freeport McMorran management. The people of West Papua expect to know the truth, which includes public apologies and acknowledgement of the mistake made against the people of West Papua in the past and continue to be made up to the present. Freeport and the USA Government continue to fund the Indonesian military to wage war against the people of West Papua while exploiting the resources from Freeport Mine. The people of West Papua have been going through an injustice of the highest order over the years. The USA and Freeport need to come out clear and apologize to the people of West Papua for the injustice and the environmental destruction caused by the Freeport Mine in West Papua.

**Part III: Conclusion and Recommendations**

1. The West Papua case needs to be addressed as per the ECOSOC report (E/C.19/2013/12) of 20th February 2013[[12]](#footnote-12). 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.
2. Solidarity for Indigenous Papuans (SIP) is appealing to the OHCHR to inform the parties identified in this submission of their actions against the people of West Papua in the past to do the needful as per resolution 68/237.
3. SIP is also appealing to the OHCHR to write to the International Court of Justice (ICJ) to seek its opinion on the status of West Papua in light of the arrangement made under the New York Agreement in 1962 and its implementation by the United Nations.
4. The situation in West Papua urgently needs attention from the UN and other parties involved. The case of West Papua needs to be prioritized as an individual case without generalization.
1. *See* full historical narrative and human rights abuses here; <https://openaccess.uoc.edu/handle/10609/147643>. [↑](#footnote-ref-1)
2. *See* the narrative on the legal status of West Papua here; <https://wpik.org/a/>. [↑](#footnote-ref-2)
3. 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. [↑](#footnote-ref-3)
4. *See* “Colonialism and Cold Genocide: The Case of West Papua” by Anderson (2015) here; [https://pdfs.semanticscholar.org/65a9/0670db3482b6b44bba301e10ec85cf9fa82d.pdf?\_gl=1\*1aa5zxz\*\_ga\*MTg3Nzg1MDcxNS4xNjgxNzQ4MzE5\*\_ga\_H7P4ZT52H5\*MTY4MTc0ODMxOS4xLjAuMTY4MTc0ODMyMi4wLjAuMA](https://pdfs.semanticscholar.org/65a9/0670db3482b6b44bba301e10ec85cf9fa82d.pdf?_gl=1*1aa5zxz*_ga*MTg3Nzg1MDcxNS4xNjgxNzQ4MzE5*_ga_H7P4ZT52H5*MTY4MTc0ODMxOS4xLjAuMTY4MTc0ODMyMi4wLjAuMA).. [↑](#footnote-ref-4)
5. *See* also “West Papua the Struggle for Peace with Justice” by Neles Tebay (2005) here; [https://www.scribd.com/document/30426153/Neles-Wpapua#](https://www.scribd.com/document/30426153/Neles-Wpapua) [↑](#footnote-ref-5)
6. *See* current human rights updates here; <https://franciscansinternational.org/fileadmin/media/2020/Asia_Pacific/Publications/HumanRightsPapua2019-ICP.pdf>. [↑](#footnote-ref-6)
7. *See* full narrative here: “The United Nations and the Indonesian Takeover of West Papua, 1962-1969: The Anatomy of Betrayal” (Saltford, 2003), available from; <https://kurumbiwone.com/wp-content/uploads/2021/11/United-Nations-and-the-Indonesian-Takeover-of-West-Papua-1962-1969-The-Anatomy-of-a-Betrayal-by-John-Saltford-z-lib.org_.pdf>. [↑](#footnote-ref-7)
8. Tandamat (2022, 19), available from; <https://openaccess.uoc.edu/handle/10609/147643>. [↑](#footnote-ref-8)
9. *See* [*https://www.etan.org/news/2008/09freeport.htm*](https://www.etan.org/news/2008/09freeport.htm) [↑](#footnote-ref-9)
10. *See The Incubus of Intervention: Conflicting Indonesia Strategies of John F. Kennedy and Allen Dulles* by Greg Poulgrain (2015). [↑](#footnote-ref-10)
11. <https://www.dw.com/en/netherlands-apologizes-to-indonesia-over-war-crimes/a-60817847>. [↑](#footnote-ref-11)
12. Study on decolonization of the Pacific region at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/238/49/PDF/N1323849.pdf> [↑](#footnote-ref-12)