

Indictment: Permanent Peoples' Tribunal Session on Environmental Destruction and State Repression in West Papua

CHARGES

The Indonesian state is accused of taking the ancestral land of the Indigenous Papuan people against their will, employing racial discrimination which leads to the loss of culture, traditions and Indigenous knowledge, erases their history and subsumes them into the Indonesian national narrative.

AND

The Indonesian state is accused of violent repression, including unlawful detention, extra-judicial killing, and population displacement in West Papua as a means of furthering industrial development.

AND

The Indonesian state is accused of organised environmental degradation, including the destruction of eco-systems, contamination of land, the poisoning of rivers and their tributaries and of providing the permits, concessions and legal structure of non-compliance for national and foreign companies to invest in West Papua in a way that encourages environmental degradation.

AND

The Indonesian state is accused of colluding with national and foreign companies to cause environmental degradation, population displacement and sustain violent repression in West Papua.

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I. PREAMBLE

The Indonesian-ruled territory of West Papua is home to some of the richest biodiversity in the world. The New Guinea rainforest which spans the Indonesian and Papua New Guinean part of the island territory - is the largest in the Asia-Pacific region and is the third largest in the world after the Amazon and Congo.



Figure 1: The territory of West Papua

The territory of West Papua refers to the Western half of the island of New Guinea, partitioned as a result of European colonial settlement. West Papuans, an Indigenous Melanesian people, have been engaged in a struggle for their right to self-determination since colonisation by the Netherlands in 1898.¹ Just like the Amazon, this area of critical value to the sustainability of the planet is now under threat from extractive industries and the many Indigenous tribes find their ways of life increasingly violently disrupted.

In 1962, the basis for a new constitutional government of West Papua was provided for by the New York Agreement, a pact signed by the Netherlands and Indonesia at the headquarters of the United Nations. This document transferred administrative control of West Papua to a UN Temporary Executive Authority and subsequently to Indonesia with the provision that a vote for self-determination would follow soon afterwards. This vote eventually took place in 1969, and was called the Act of Free Choice, though to West Papuans it is commonly referred

¹ West Papuans are closely related to the people of the neighbouring countries of Papua New Guinea, Solomon Islands, Fiji and Vanuatu.

to as the Act of No Choice.² In this process, the Indonesian government presided over a delegate system in which delegations amounting to 1,024 individuals – less than 1 per cent of the population were actually included in the vote.³ The unanimous “yes” vote was noted – though not accepted - by the UN. There were widespread accounts of bribery and intimidation with the threat of physical violence and some still refer to it as the “gunpoint referendum”.⁴

Since the 1980s, Indonesia has embraced a neoliberal economic agenda, opening up some sectors to foreign investors and retaining control over key industries. More recently, and especially under the leadership of President Joko ‘Jokowi’ Widodo, the nation’s development approach has been defined by a “normative commitment to an activist state”, in which state interventionism in the economy seeks to “engineer fast economic growth” and “direct industrial upgrading”.⁵ The Indonesian government has subdivided West Papua into six provinces - with four of the six introduced in 2023. According to the government, the splitting of provinces was introduced in order to provide equitable development across the region.⁶

Until 2000, West Papuans faced an intentional and systematic form of settler colonialism under a policy known as transmigration. The first transmigration programs were introduced by the Dutch and after gaining independence, the program was continued by the Indonesian government. It is now likely that Indonesians outnumber West Papuans.⁷ As part of the transmigration program, hundreds of thousands of people were aided by the Indonesian government in relocating from other parts of Indonesia to a wide range of areas in West Papua. Between 1969 and 1989, the government helped approximately 730,000 families from other parts of Indonesia relocate to “less inhabited” parts of their territory, in an effort that was seen as a way of diluting the ethnic concentration of West Papua and undermining peoples’ claim to their land.⁸ Families that relocated were also given land on which to build and farm, leading to the reallocation of tens of thousands of hectares of land.

² Stalford, J. (2003) *The United Nations and the Indonesian Takeover of West Papua, 1962-1969: the anatomy of betrayal*, London: Routledge Curzon.

³ United Nations (1969) *Report of the Secretary General Regarding the Act of Self-Determination in West Irian*, U.N. Doc. A/7723, 6 November 1969, Annex I, New York: United Nations.

⁴ Glazebrook, D. (2008) *Permissive Residents: West Papuan refugees living in Papua New Guinea*, Canberra: ANU Press.

⁵ Warburton, E. (2018) A New Developmentalism in Indonesia? *Journal of Southeast Asian Economies* 35(3) 355-368.

⁶ United Nations (2023) *Group of Experts on Geographical Names, Item 6 (a) of the provisional agenda, National and international standardization of geographical names: names collection, office treatment, national authorities, features beyond a single sovereignty, and international cooperation, 1-5 May 2023*, New York: United Nations. Available online at:

https://unstats.un.org/unsd/ungegn/sessions/3rd_session_2023/documents/GEGN.2_2023_50_CRP.50_revised.pdf

⁷ International Coalition for Papua and the Westpapua-Netzwerk (2020) *Human Rights and Conflict Escalation in West Papua: The sixth report of the International Coalition for Papua*, Wuppertal – Geneva: International Coalition for Papua and the Westpapua-Netzwerk

⁸ United Nations, 2023 op. cit.



Figure 2: Transmigration in West Papua

Today, the urban centres and coastal towns of West Papua are dominated by Indonesians who moved there with the promise of economic opportunities through tourism, mining and logging.⁹ In stark contrast, some of the highest poverty levels in Indonesia are in the highlands and rural areas of West Papua where the increasingly disenfranchised and internally displaced peoples have been forcibly concentrated.¹⁰

The policy of transmigration has facilitated an increase in the numbers of Internally Displaced Persons (IDP).¹¹ This has been facilitated by the creation of new provinces and districts that have enabled the extension of centralised state control.¹² The cultural ramifications of land loss have deep implications for the spiritual ancestry of West Papuan people, with the purging of ancestral land seen to evict not only those who live on it but the spiritual ancestors as well, severing a vital connection.¹³ Whilst transmigration, as an official policy, ended in 2000, unofficial transmigration continues. Internal displacement continues as a result of a combination of poverty forcing people to leave their homes and military and police brutality, particularly in regions where the extractivist and plantation economies are being expanded.

While the Indonesian government argues that economic growth in the region will produce jobs and increase quality of life, the Melanesian communities in West Papua have disputed such claims, and have testified to the deleterious impact that industrial development is having

⁹ Stott, D. (2011) Indonesian Colonisation, Resource Plunder and West Papuan Grievances, *Asia-Pacific Journal* 9(12): 1.

¹⁰ Halmin, M. Y. (2006) *The Implementation of Special Autonomy in West Papua, Indonesia Problems and Recommendations*. Monterey, California. Naval Postgraduate School.: 49

¹¹ Glazebrook, op. cit.: 107

¹² TAPOL (2023) *Displaced and disempowered: Military expansionism at the cost of civilian lives*, London: TAPOL.

¹³ *Ibid.*

on vital life systems, biodiversity, as well as attacking their customs and ways of life. In the current context, the diverse tribes of West Papua are facing what has been referred to as a ‘cold genocide’¹⁴ with the loss of culture, traditions, Indigenous knowledge as well as the ‘rewriting’ of history that subsumes them into the Indonesian national narrative.

There is, as this indictment shows, extensive evidence that ‘industrial upgrading’ has created huge amounts of toxic waste, poisoned food and water sources, devastated some of the world’s richest coral reefs, destroyed biodiversity and further displaced and oppressed the West Papuan people.

Industrial development has therefore been met with sustained resistance from local communities and this has led to a recent upsurge of state violence and dispossession. Some techniques of repression, such as arbitrary detention and torture of Papuan dissenters, have been employed by military actors to defend corporate land-grabbing and highly contentious industrial projects.¹⁵ The displacement of local populations is a major consequence of industrial development. The UN Office for the High Commissioner for Human Rights estimates that between December 2018 and March 2022, 60,000 – 100,000 Papuans have been displaced.¹⁶

The situation shows no signs of improvement. In October 2023, there were reported massacres of elders and teenagers in two different villages by the Indonesian military. Indeed, displacement and extrajudicial killing is directly related to the form of development currently facilitated by the Indonesian military. In September 2023, 650 people were displaced after military raids.

In July 2023, the Under-Secretary-General - Special Adviser to the Secretary-General on the Prevention of Genocide noted alleged harassment, arbitrary arrests, and detention of Papuans and non-recognition of the rights of Indigenous Papuans that has enabled the alleged appropriation of Indigenous lands and stated that these “risk factors cannot be mitigated without addressing the role of extractive industries and exploitation of natural resources”.

In spite of reports such as this, the international community has thus far failed to take any meaningful action to intervene.

Notably, Indonesia has denied both the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples and the UN Special Rapporteur on the Rights to Food entry into West Papua, despite impassioned pleas from civil society for an independent report examining Indonesia’s development strategy and its detrimental impacts on the rights and well-being of West Papuans.

Mass displacement from ancestral and communal lands disrupts Indigenous livelihoods, exacerbates food insecurity, undermines tenure security, and dramatically reduces access to land. Reduced land access also affects the enjoyment of cultural rights, including a customary

¹⁴ Anderson, K. (2015) Colonialism and Cold Genocide: The Case of West Papua’. *Genocide Studies and Prevention* 9 (2) 9–25.

¹⁵ Brundige, E., King, W., Vahali, P., Vladeck, S. and Yuan, X. (2004) *Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control*, A paper prepared for the Indonesia Human Rights Network, New Haven: Yale Law School.

¹⁶ Office of the High Commissioner for Human Rights (2022) *Indonesia: UN experts sound alarm on serious Papua abuses, call for urgent aid*, Press Release, 1st March, Geneva: UN OHCHR.

relationship to land. In this respect, we recognise that whilst many of the charges set out here relate to offences that are unambiguously counter to the fundamental rights of people, customary rights, including the relationship between industrial development and the customary relationship with the land and with nature is not set out well in international legal standards.

A growing body of evidence attests to the devastating environmental impacts of development in the region, and to persecution, human rights violations and extra-judicial killings linked to those development practices. This body of evidence links state repression to the mass displacement of Indigenous people, the depletion and poisoning of water supplies and the destruction of local ecosystems related to logging, palm oil plantations and mineral extraction. We map out this evidence in section III below.

II. SUBJECT OF THE CHARGES

Whereas the Permanent Peoples' Tribunal (PPT) is a public opinion tribunal based on the Universal Declaration of the Rights of Peoples (Algiers, 1976) and on all the instruments of international law;

Whereas the various chapters of the PPT have sought to struggle against impunity and to promote respect for human rights, access to justice and the re-appropriation of the human rights instruments;

Whereas the PPT is able to adjudicate flagrant, systemic and systematic violations of the rights of peoples;

Whereas the PPT is able to adjudicate international crimes of an economic, social or ecological nature;

Whereas several previous sessions of the PPT have focused on the judicial void regarding the role of states and transnational corporations in the destruction of the lives and livelihoods of local and Indigenous populations, including: tribunal 49. 'In defense of the Cerrado territories' (2021-2022); Tribunal 40. 'Canadian mining transnational corporations' (2014); Tribunal 35. 'Transnational corporations and the rights of peoples in Colombia' (2006-2008) and 33. 'The European Union and transnational corporations in Latin America: policies, instruments and actors complicity in the violation of peoples' rights' (May 2010).

Whereas the mission of the Permanent Peoples' Tribunal is to promote universal and effective respect for the fundamental rights of peoples by determining if these rights have been violated, and in examining the causes of these violations as well as denouncing their authors before world public opinion;

AND

Whereas the Indonesian-ruled territory of West Papua is home to some of the richest biodiversity in the world, is host to a large part of the most important rainforest in the Asia-Pacific region and the third largest in the world after the Amazon and Congo;

- Whereas industrial development in many parts of the world has compromised the customary ways of life, the ability to promote democratic social, political and economic forms of organisation and involves violations of the human, social, cultural and economic rights of peoples that have important impacts on communities, territories and the environment;
- Whereas industrial development in West Papua has had precisely those consequences for local populations who have suffered a violent conflagration of state violence and the destruction of their ability to live and to survive in their ancestral land;
- Whereas Indonesia establishes the regulatory and military infrastructures that deliver this form of industrial development;
- Whereas repression by the Indonesian state specifically targets West Papuan culture and political aspirations, and promotes racist tropes;
- Whereas repression and environmental destruction proceeds with the direct involvement of numerous Indonesian corporations and transnational corporations, including companies headquartered in the US, China, Malaysia, Singapore, Britain and other European states;
- Whereas major obstacles exist in Indonesian West Papua for affected communities to seek justice at regional, national and international levels, which promotes the impunity of the parties cited in the charges above;

The subject of the charges is the form of industrial development that is organised by the Indonesian government and supported by national and transnational profit-making corporations. The subject of this indictment is therefore rooted in fundamentally unequal social and economic relationships that enable Indonesian industrial policy to be imposed on the people of West Papua against their will. The militarised techniques of social control that accompany it ensure the continuation of those unequal social and economic relationships.

Those issues are unlikely to be resolved by law. Indeed, colonial legal paradigms – whether Indonesian or European in their origin, cannot restore the relationship between the rights of the people and the rights of the earth. The subject of those charges therefore relate to, but at the same time extend far beyond a self-contained set of breaches to fundamental rights in international law.

Having said this, we recognise at the same time that the subject of this indictment cuts across a large number of breaches of fundamental rights in international law. The relevant sources of those rights are, in particular, the Universal Declaration of Human Rights (1948), the Freedom of Association and Protection of the Right to Organise Convention (Convention 87) of the International Labour Organization (1948), the International Covenant on Civil and Political Rights (1966); the International Covenant on Economic, Social and Cultural Rights (1966), the Stockholm Declaration on the Environment (1972), the Universal Declaration of the Rights of Peoples (Algiers, 1976), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Indigenous and Tribal Peoples' Convention (Convention 169) of the International Labour Organization (1989), The Universal Declaration of the Collective Rights of Peoples (Barcelona, 1990), the Rio

Declaration on the Environment and Development (1992), the UN Guiding Principles on Internal Displacement (1998), the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998), the International Convention for the Protection of All Persons from Enforced Disappearance (2006), and the Declaration of the United Nations on the Rights of Indigenous Peoples (2007) (UNDRIP).

Despite the breach of fundamental rights across numerous different international declarations and conventions, justice has been repeatedly denied to the people of West Papua. We note that the origins of the problem lie in a breach of the inalienable right to self-determination as framed by the Declaration on the Granting of Independence to Colonial Countries and Peoples. We also note that Indonesia is signatory to many of those instruments including UNDRIP. The Special Autonomy Law that governs Indonesian Papua, along with other forms of regulation lack a Free, Prior, and Informed Consent (FPIC), a specific right granted to Indigenous Peoples and recognised in UNDRIP.

Therefore we have initiated these proceedings in light of the Permanent Peoples Tribunal function as an “institution devoted to listening to peoples forced to deal with the absence of law and impunity.”

III. SUBSTANCE OF THE CHARGES

III (i) *Evidence of Indonesian state repression*

Violence in West Papua has escalated since 2018. It has resulted mainly from militarisation which causes armed conflict. On the other hand, militarisation follows industrial development which in turn has exacerbated armed conflict. Between 2019 and 2021, several UN Special Procedures’ mandate holders sent communications raising concerns regarding the alleged targeting of human rights defenders in West Papua, including alleged violations of freedom of opinion and expression, and freedom of assembly and association.¹⁷

The criminalisation of protestors is also used as a tool to suppress protests.¹⁸ Indonesian state responses to protests in 2019 led to the deployment of several thousand additional police and military personnel to West Papua, who in turn, levied charges of treason and other offenses carrying lengthy prison sentences against protestors and activists.¹⁹ Between the period of October 2020 and September 2021, the Papuans Behind Bars project recorded 418 new political prisoners being held in Indonesian jails, and 118 new incidents of arbitrary arrest and detention related to uprisings against ongoing injustices.²⁰ Many of those arrested and detained were charged with treason offenses under Indonesia’s penal code.²¹

¹⁷ IDN 3/2019, IDN 7/2019, IDN 8/2019, IDN 2/2020, IDN 6/2021, IDN 8/2021, IDN 10/2021

¹⁸ CIVICUS (2023). ‘Indonesian authorities criminalise activists, violent suppress protests around Papua,’ accessed 14 November 2023. Available at <https://monitor.civicus.org/explore/indonesian-authorities-criminalise-activists-violently-suppress-protests-around-papua/>

¹⁹ Chao, S. (2020) *West Papua and Black lives matter*. Inside Indonesia, 140; Amnesty International. (2021, May 28). *Papuan political activist faces life imprisonment. Urgent Action: 58/21. Index: ASA 21/4209/2021*. Indonesia.

²⁰ Papuans Behind Bars (2021). Annual Overview of the Period October 2020 to September 2021; Papuans Behind Bars 14 November 2023, accessed at <https://www.papuansbehindbars.org/?p=4761>

²¹ *ibid*.

Beyond facing charges of treason, activists who have spoken out against corporate crimes and state abuse have been charged with defamation and ‘hate speech’ under Indonesia’s Electronic Information and Transaction Law and Penal Code.²² Additionally, Papuan activists and leaders have been apprehended and charged with engaging in criminal conduct based on their pro-independence social media posts and activity.²³ Amendments to Indonesia’s counter terrorism law have also been used to sanction arbitrary detention of dissenters and restrict rights of freedom of expression, association, and peaceful assembly.²⁴

In 2022, three UN Special Rapporteurs (Francisco Cali Tzay, Special Rapporteur on the rights of Indigenous peoples, Morris Tidball-Binz, Special Rapporteur on extrajudicial, summary or arbitrary executions, Cecilia Jimenez-Damary, Special Rapporteur on the Human Rights of Internally Displaced Persons) expressed grave concern about the rise in extra-judicial killings. They also noted that the Indonesian government had consistently denied access to UN organisations and to international relief organisations.

New forms of racist colonial tropes, portraying Papuans as primitive ‘warmongers’ and morally inferior, are generally deployed to justify Indonesian control and the containment of communities actively resisting these dynamics. These stereotypes connect with those used during Dutch colonialism, and today serve to legitimise state violence and repression against those challenging the status quo. Indonesian and military forces have consistently labelled Papuan bodies as “polluted, dangerous, and uncontrolled,” providing a pretext for ongoing repression and state intervention.²⁵

The violence in West Papua continues, and there are indications that it may be intensifying. In September 2023, Indonesian soldiers killed five young West Papuans between the ages of 15-18 in the midst of an escalation in violence and the forced displacement of a reported 674 West Papuans, their homes burned and livestock slaughtered.

III (ii) *Evidence of the links between industrial development and state repression*

Indonesian security forces are routinely deployed to suppress local community gatherings intent on discussing and mobilising action against ‘development’ initiatives that extract profit from West Papua’s natural resources, while leaving communities more marginalised and impoverished. These violent and repressive acts are further supported by an elaborate system of state surveillance, with activists, clergy, students, local politicians, and customary leaders often targets of intense military intelligence gathering and reporting.²⁶

²² CIVICUS, op. cit.

²³ Ibid.

²⁴ Papuans Behind Bars, 2021 op. cit..

²⁵ Chao 2020, op. cit.; Eichhorn, S. (2022): Resource extraction as a tool of racism in West Papua, *The International Journal of Human Rights*, DOI: 10.1080/13642987.2022.2036722.: 9; Tilley, L. (2020) “The Impulse Is Cartographic”: Counter-Mapping Indonesia’s Resource Frontiers in the Context of Coloniality, *Antipode* 52(5) 1434–54.; and Woodman, C. (2023) The West Papuan Liberation Movement, Indonesian Settler Colonialism and Western Imperialism from an International Solidarity Perspective, *The International Journal of Human Rights* 27(6) 1017–49.

²⁶ Human Rights Watch (2011) *Indonesia: Military Documents Reveal Unlawful Spying in Papua: End Monitoring of Civil Society, Uphold Free Expression*. Available online at: <https://www.hrw.org/news/2011/08/14/indonesia-military-documents-reveal-unlawful-spying-papua>

The Grasberg Mine, one of the world's largest open air gold and copper mines, has been the site of major struggles between Indonesian security forces and local people; this conflict has led to the mass displacement of the Amungme and Komoro people. Struggles over the development of a new major gold ore mine, Wabu Block have led to the militarisation of the area, with West Papuans routinely being subjected to extrajudicial killings, beatings and control by the violent state security apparatus. Since 2019, Amnesty International has documented up to 12 suspected cases of unlawful killing at the hands of security forces as well as incidents of routine arrests and beatings related to Wabu Bloc.²⁷ Mining corporations are asked to directly compensate the Indonesian military for safeguarding their operations and assets.²⁸ A prominent example in this regard is the payment made by a local subsidiary of Freeport-McMoRan to Indonesia's security forces for guarding the Grasberg mine, linked to subsequent human rights violations.²⁹

The Indonesian military has routinely used force to clear areas for industrial development.³⁰ A report published recently by the PNG Integral Human Development Trust³¹ has documented sustained military attacks on the Ngalum Kupel people, a distinct linguistic ethnic group who are customary owners of the highland mountain valleys, on tributaries of the Sepik River, adjacent to Kiwirok in the Pegunungan Bintang region of West Papua. The attacks started in October 2021 and included airborne rockets and bombing attacks on villages around Kiwirok conducted by drones and helicopters. Due to the severity of the initial attack and continued military activity, including sniper fire targeting individuals, shootings and torture of community members, the Ngalum Kapel people have fled their villages and have been unable to return to their homes, subsistence gardens and land. They are now living in exile in the mountains with limited access to food. The report recorded the names of 284 community members reported to have died of starvation since fleeing their village in October 2021. The motivation appears to be the opportunity to develop gold and copper mines. Thus:

“The region is considered prospective for gold and copper mining, with the Ok Tedi mine adjacent across the border in PNG. Indonesian rights advocates describe linkages between the operation of Indonesian military forces, retired Police and ex-Military leadership, who are now Government Ministers, seeking to expand mining interests, which is the driver of conflict with traditional landowners in highland areas of Papua.”³²

It is also the context for local opposition to the Tangguh liquefied natural gas (LNG) facility at Bintuni Bay in the far west of West Papua, another major asset in Indonesia's extractive drive. The facility is owned by a consortium led by BP which also includes, CNOOC and Mitsubishi Corporation. According to BP, Tangguh currently produces around 20 per cent of Indonesia's natural gas. An ongoing expansion of the facility – which includes two offshore

²⁷ Amnesty International (2022) *Gold Rush: Indonesia's Mining Plans Risk Fueling Abuses in Papua*, London: Amnesty International.

²⁸ Aglionby, J. (2005) Indonesian military admits being paid by US mining firm. *The Guardian*, 30 December, available at <https://www.theguardian.com/world/2005/dec/30/indonesia.johnaglionby>

²⁹ Brundige et. al. op. cit.

³⁰ TAPOL, 2023, *op. cit.*; TAPOL and awasMIFEE! (2022) *The Military's Role in Food Estate Plans*, London: TAPOL and awasMIFEE!

³¹ Jamieson, M. (2023) *Report on the continuing aggravated attack and serious human rights violations of Ngalum Kupel people*, Boroko: PNG Integral Human Development Trust.

³² *ibid.*: 8

platforms and 13 new production wells – will increase the total LNG production by approximately 50 per cent. Once it is complete, it is expected to supply 35 per cent of Indonesia’s gas. The field has gas reserves estimated at 800 billion cubic meters. Since the early days of production BP has been accused of “siding with the Indonesian authorities against native Papuans who are engaged in a long struggle for independence.”³³ Certainly, the company works closely with the same security forces that are committing human right violations and extra-judicial killings and are displacing local populations. BP relies on locally-employed Papuan security guards at the plant, however, it does at times need to call in the police and the military.³⁴ BP makes payments to both for this protection.³⁵ In one famous incident, John O’Reilly, then senior vice president of BP, visited the plant around the time of an attack on the Indonesian police that killed several officers. Operation ‘Sweep and Crush’, the response to the killings resulted in a situation where ‘over 140 people were detained, tortured or otherwise ill-treated’, and seven people were killed in extrajudicial killings.³⁶ The Indonesian government established a new military base near Tangguh in 2006. One investigation in 2018 revealed that the private company which manages BP’s local security force is “run by retired Indonesian army and police” and that this led to “targeting peaceful social movements in Bintuni Bay.”³⁷

III (iii) Evidence of the links between industrial development and environmental devastation

The cultural identity and well-being of the community in West Papua is shaped by particular values of the indivisibility of the relationship between human communities and nature. Those values are rooted in the long-term care and stewardship of the forests, in relationships between human and non-human beings and is mediated by particular (sacred) places. The management and use of natural resources depends on the trust in neighbours, empathy, mindfulness, and purpose, rather than on the accumulation of things. The form of development pursued in West Papua has failed to respect the land and resource rights of Indigenous people, and in cases where they have taken land, compensation has not been made transparently to the rightful owners.

For West Papuans, Indonesian control and exploitation represents a systematic attempt to erase West Papuan lives and culture. Indeed, the ongoing forced separation of people from their land has been closely intertwined with influxes of non-Papuan migrants to the region, and subsequent ethnic subjugation, as well as cultural assimilation, growing poverty and food insecurity, intergenerational displacement, and the loss of livelihoods.³⁸ Papuan civil society commonly refers to a ‘structural and systemic genocide’ being perpetrated through these

³³ Vidal, J. (2008) Shattered Illusions, *The Guardian* 19th March. Available online at: <https://www.theguardian.com/environment/2008/mar/19/fossilfuels.indonesia>

³⁴ McKenna, K. (2015) Corporate security practices and human rights in West Papua, *Conflict, Security and Development*, 15(4).

³⁵ Hickman, A. and Barber, P. (2011) *Tangguh, BP and International Standards: An analysis of the commitments made by BP in relation to BP Tangguh in West Papua and their social and environmental responsibilities*, New Delhi, India: Down to Earth.; Kirksey, E. (2012) *Freedom in Entangled Worlds: West Papua and the Architecture of Global Power*, Durham North Carolina: Duke University Press.

³⁶ Kirksley, op. cit.

³⁷ Gillard, M. (2018) *Special Investigation: BP In West Papua – Slow Motion Genocide, High Speed Profit*, NewMatilda.Com, 5th November. Available online at: <https://newmatilda.com/2018/11/05/special-investigation-bp-west-papua-slow-motion-genocide-high-speed-profit/>

³⁸ Chao, S. (2022) Gastrocolonialism: The Intersections of Race, Food, and Development in West Papua, *The International Journal of Human Rights* 26(5) 811–32.

dynamics of land alienation and the loss of food sovereignty, as well as the marginalisation of Papuans by influxes of migrant labourers.³⁹ As such, popular struggles against these injustices are deeply rooted in a longstanding quest for freedom and self-preservation. They are further tied to the profound relationship that Papuans have with their natural environment, reflecting Papuan cultural dependencies and harmonious co-existence with nature that is being disrupted by the large-scale destruction of forests and assaults on Papua's rich biodiversity.

The environmental impact of commercial extractivism - particularly mining for metals and the extraction of oil and gas – has had very similar impacts on West Papua. Perhaps most prominent in the extractive industries is the Grasberg mine, one of the world's largest open air gold and copper mines, which was, until recently, 90 per cent owned by the US mining giant Freeport-McMoRan. It is currently owned by PT Freeport Indonesia, a joint venture between Freeport and the Indonesian government. Grasberg is Indonesia's biggest source of tax revenue.⁴⁰

The operation and securing of the mine has led to destruction of the local ecosystem, as well as mass displacement of the Amungme, Sempan and Komoro people, the traditional custodians of the land.⁴¹ The Amungme tribe considers the mountain to be a sacred place, where the spirits of their ancestors live. They describe the mountain (now entirely destroyed) as “the sacred head of their mother”, and the rivers as their milk.⁴² Thus the people of West Papua have a connection to the land that cannot be ontologically separate from their existence, or from their own being. And yet, over half a century, the mountains and land have been cleared, dredged and hollowed out by Freeport without the permission of the traditional landowners.

Toxic tailings are deposited daily from the Grasberg mine into the local river systems – estimated at 300,000 tons per day.⁴³ The tailings are not captured for storage and disposal but are pumped straight into the Ajkwa river. Once in the water system, those deposits have affected a large and complex network of rivers and their estuaries. Based on an analysis of satellite images, it is thought that at least 130 square kilometres of water and land have been affected.⁴⁴ Samples taken in three different river locations contained concentrations of Phosphate, Cyanide, Iron, Copper, and Zinc.⁴⁵ Local people have been poisoned after contact with the toxic river; fish stocks have been devastated by suspended particulate matter (SPM) and copper toxicity, and because of the poisoning of water and land, people have to travel for large distances to hunt for animals and harvest sago.⁴⁶ Transportation on the river using traditional boats has been stopped due to toxic sediment deposits building up on the river.⁴⁷

³⁹ Ginting, L., & Pye, O. (2013). Resisting agribusiness development: the Merauke Integrated Food and Energy Estate in West Papua, Indonesia. *ASEAS - Austrian Journal of South-East Asian Studies*, 6(1), 160-182:17

⁴⁰ International Coalition for Papua (2020) *PT Freeport Indonesia and its trail of violations in Papua: human, labour and environmental rights*, Wuppertal, Germany: ICP.

⁴¹ Kuum, A. (n.d.) *Freeport Mining and its Environmental Impacts on the Riverine Ecosystem, Eastern Mimika*, West Papua: Lembaga Peduli Masyarakat Wilaya Mimika Timur Jau. International Coalition for Papua, op. cit.

⁴² Eichhorn, 2022, op. cit.

⁴³ Kuum, n.p. cit.; International Coalition for Papua, op. cit.

⁴⁴ International Coalition for Papua, op. cit.

⁴⁵ *ibid.*

⁴⁶ *ibid.*

⁴⁷ *ibid.*

Already, Indonesia's lack of rigorous environmental assessments for new development projects has resulted in alarming rates of forest loss, placing the nation among the highest globally. Estimates indicate a staggering loss of approximately 10.2 million hectares of primary forests in Indonesia between 2002 and 2022.⁴⁸

Central to this process of development is the construction of the massive Trans-Papuan highway. Penetrating remote areas, this network of roads is planned to be 2,700 miles in length with the aim of increasing access to the minerals, timber, palm oil plantations and other exploitable natural resources. The construction of the highway is strongly opposed in many communities and this opposition has resulted in an intensification of state violence.

Another major source of environmental destruction are the palm oil plantations. Indonesia is the largest exporter of palm oil in the world. In 2021, according to the OEC (Observatory of Economic Complexity), Indonesia exported \$27.3 billion worth of palm oil. Under the EU Deforestation Regulations (EUDR), palm oil products that enter the EU market must not come from deforested land. One report by the Indonesian-based Center for International Forestry Research has found that around 83 per cent of palm oil expansion has occurred at the expense of forests.⁴⁹ The same report concluded that the Indonesian government has encouraged oil palm plantations in West Papua to become twice the size of those in other parts of the country.⁵⁰

The devastating effects of oil palm have been well documented by researchers and local communities including soil erosion, the depletion and poisoning of local water supplies and the destruction of biodiversity. Palm oil plantations also lead to loss of forest cover providing a major carbon sink and loss of habitat for endangered species.

IV. THE TRIBUNAL

The Tribunal is asked to hear evidence and deliberate on the following:

- After hearing the evidence, does the Tribunal consider that the Indonesian state has taken the ancestral land of the Indigenous Papuan People against their will using racial discrimination and leading to the loss of culture, traditions and Indigenous knowledge?
- After hearing the evidence, does the Tribunal consider that the Indonesian state is accused of violent repression, including unlawful detention, extra-judicial killing, and population displacement in West Papua as a means of furthering industrial development?

⁴⁸ Global Forest Watch 2023, 'Indonesia,' accessed 14 November 2023
<https://www.globalforestwatch.org/dashboards/country/IDN/?category=forest-change&map=eyJjYW5Cb3VuZCI6dHJlZX0%3D&scrollTo=forest-loss>

⁴⁹ Kesaulija, F. and 6 other authors (2014) *Oil palm estate development and its impact on forests and local communities in West Papua A case study on the Prafi Plain Working Paper 156*, Bogor, Indonesia: Center for International Forestry Research.

⁵⁰ *ibid.*

- After hearing the evidence, does the Tribunal consider that the Indonesian state has organised environmental degradation, including the destruction of eco-systems, contamination of land, the poisoning of rivers and their tributaries and of providing the permits, concessions and legal structure of non-compliance for national and foreign companies to invest in West Papua in a way that encourages environmental degradation.
- After hearing the evidence, does the Tribunal consider that the Indonesian state is colluding with national and foreign companies to cause environmental degradation, population displacement and sustain violent repression in West Papua?
- After hearing the evidence, does the Tribunal consider that the international community and specifically the UN and its agencies must respond urgently to the situation in West Papua. How does the Tribunal consider that this response should provide relief to the people of West Papua?

V. SIGNATORIES

Climate Crime and Climate Justice, Queen Mary University of London <https://ccccjustice.org>

Indigenous Peoples Movement for Self-Determination and Liberation, Quezon City, Philippines <https://www.ipmsdl.org/>

International Association of Democratic Lawyers, Paris, France <https://iadllaw.org>

INTERPRT, Norway <https://www.interprt.org/>

Pacific Conference of Churches, Suva, Fiji <https://www.pacificconferenceofchurches.org/>

Sinchi Foundation, Amsterdam, Netherlands <https://sinchi-foundation.com/>

TAPOL, London <https://www.tapol.org/>

And 8 other local and international civil society organisations, names withheld.