

Closing statement by the Prosecution, 29 June 2024

Honourable Judges of the Permanent Peoples Tribunal,

Independence is the inalienable right of all nations, therefore, all colonialism must be abolished in this world as it is not in conformity with humanity and justice.

On the first day of this tribunal, expert witness Dr Herlambang Wiratraman referred to this first sentence of the preamble to the 1945 Indonesian Constitution.

But the Indonesian state denied West Papua the chance to become a newborn nation. Instead, Indonesia occupied West Papua in 1963, establishing a violent and deeply racist system and thus trading Dutch colonial rule for Indonesian settler colonization.

Racist, because the fate of West Papua was decided between Indonesia and the Netherlands in a negotiation which denied any participation by the Papuan people. Indeed, Indonesian officials publicly stated that the Papuans were too primitive to decide for themselves.

Violent, because large numbers of military personnel had already been deployed in West Papua between 1963 and 1967. Not to win hearts, but - as the reports of the UN Special Representative Ortiz-Sanz show - to force the Indigenous Papuan people to vote for the integration of West Papua into the Indonesian Republic.

In his opening remarks, Yan Christian Warinussy pointed out that Indonesia's desire to firmly establish their rule in West Papua was clearly motivated by the territory's vast array of natural resources and the economic opportunities they represent. Multinational corporations like Freeport-McMoran were ready to bring major investments to West Papua, signing a contract with the Indonesian state in 1967, even before Indonesia formally gained control over the territory, whereby no consultation took place with the Papuan people. The pattern is clear Your Honors, a continuation of violent colonial rule, maintaining the status quo of the colonial concept of empty land. Indeed, what followed is decades of violent dispossession of Indigenous Papuans, taking their ancestral lands of which they have been the guardians for centuries.

Over the past three days we have heard eyewitness accounts and expert testimonies that show a continuum of unlawful, violent oppression of Papuan peoples since the Indonesian takeover, to enable and facilitate the exploitation of the rich natural resources of West Papua's land, rivers and sea.

We also heard evidence of how a system of institutionalized racism has become the foundation of the suffering of the Indigenous Papuan people.

First, law is utilized as a means of discrimination against 'curly hair' Papuans, who are treated differently from 'straight hair' Indonesians. The special autonomy law for West Papua is a means to divide and rule over Papuans, while expanding military control. Also, the right to free, prior and informed consent, implemented in Indonesian national law, is not guaranteed by the Indonesian law enforcement apparatus. All testimonies - and in particular that of Ambrosius Klaglilit and Rosita Tecuari - clearly showed that companies acquire the land without free, prior and informed consent from the community, replace ancient rainforests with monocultures of oil palm or sugarcane, or destroy the land through extractive activities. Your Honors, this practice deprives

indigenous Papuans not only of their livelihoods, but also of their cultural identity, erasing their spiritual relationship with the land.

Papuans experience racism on a daily basis. Illustrative was Victor Yeimo's reference to former Indonesian Prime Minister Megawati Sukarnoputri who said in 2022 that she was happy that black West Papuans were beginning to mix with migrants - like coffee with milk (kopi susu) - and becoming more Indonesian as a result. Migrants who, through government-sponsored programs, displaced and replaced indigenous Papuans and excluded Papuans from ownership of infrastructure, property and capital.

Both Victor Yeimo and Buchtar Tabuni noted the lack of freedom of expression in West Papua. Yeimo and Tabuni are peaceful political activists and have been harassed and arrested numerous times. Most recently, both were arrested and jailed for their participation in peaceful anti-racism protests. A clear example of unlawful detention and denial of fundamental human rights.

Furthermore, the testimonies show the indiscriminate and racialised torture, rape and killing of Indigenous Papuans to punish the group. The cases of disproportional retaliation are numerous. We have heard the gripping testimony of Tineke Rumkabu about the Biak Massacre that took place in 1998, the testimony of Peneas Lokbere about the Abepura Massacre of 2000 and the testimony of Rev. Yudas Meage, about the Wamena massacre in 2023.

Infrastructure mega-projects, like the Transnational Papua Highway, are giving access to land and sea for exploitation and thus increasing conflict. In fact, there is a humanitarian crisis unfolding in West Papua. Around newly discovered mineral deposits, such as the Wabu block in Intan Jaya, conflicts between freedom fighters (TNPB) and the Indonesian army (TNI) are arising, displacing the local population. Similarly, BP's Tangguh Expansion project has created a pervasive pattern of local conflict and displacement. Although, officially West Papua is not assigned as a DOM area, - Daerah Operasi Militer - to gain full military control, the great number of deployed military personnel to protect state and military economic interests suggests otherwise. Today, there are a total of 76,000 IDPs as a result of similar conflicts throughout West Papua and as was stated during the last days, the majority are Papuan women and children.

Women are most likely to become victims of military violence which intrinsically linked to resource extraction and the territory's colonial origins. Over the decades, Papuan women suspected of collaboration with the OPM have endured high rates of (gang) rape and torture,¹ with some accounts describing particularly sadistic sexual attacks. In particular, sexual violence has flourished around the Grasberg mine site, where indiscriminate attacks against women were reported, including rape of girls and pregnant women. Many victims have given birth to children from rape. Within their communities, both mother and child are faced with intergenerational stigmatization, rejection and marginalization by their families, forming a major impediment to their access to health, education of employment opportunities and making them vulnerable to domestic violence and marginalization. Sexual violence against Papua women and the social stigma associated with it forms an attack not only on the individual, but also on the underlying cultural norms – it constitutes a highly visible atrocity to spread fear and terror among the population.

¹ For examples of such atrocities see Asia Justice and Rights 2019, 23-25; ICTJ 2009-2010, 19-20, 22, 25, 28-30.

As Lamberti Faan stated in her moving testimony, IDPs live in constant fear and in poor conditions.

Your Honors, we ask you to connecting the dots between the different forms of violence, institutionalized racism, land dispossession and rights violations. The only conclusion possible, we argue, is that Papuans are forcibly removed from the land, deliberately excluded from politics and economic life, because their autonomy and rights stand in the way of full Indonesian state control over their land and resources. The Indonesian state acts as a colonizing power and - according to its own Constitution - **thus acts against humanity and justice**. It also makes foreign companies like Freeport McMoran and BP complicit, by allowing, and indeed facilitating, unsound exploitation of the land of West Papua at the expense of the Indigenous communities.

The Indonesian State ignores the clear call for justice that is expressed so powerfully in the testimonies. The Indonesian state is willfully blind to the suffering of the Papuan people. This Permanent Peoples Tribunal must open the ears and eyes of the Indonesian state and the peoples around the world. Colonialism and neocolonialism must be stopped. Only then can we regain humanity and justice for West Papua.

Therefore, we respectfully request the judges to consider whether the presented evidence can substantiate the charges set forth in the indictment. In particular, we request the Tribunal to consider the seriousness and protracted nature of the situation in West Papua urging the international community, and specifically the UN and its agencies, to respond appropriately in a way that it responds to the concerns and needs of the Papuan people.