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RESEARCH ARTICLE

## A Soul Divided: The UN's Misconduct Over West Papua

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### Abstract

The soul of the Papuan people is divided. Separated by an arbitrary line established during the early colonial period—dissecting language groups, tribal lands, gardens, and villages—the people to the west of this line are regarded as Indonesian and live under a military dictatorship described by legal scholars and human rights advocates as systemic terror and alleged genocide while those people to the east of this line enjoy freedom within the independent state of Papua New Guinea. This paper revisits the range of agreements between the United Nations, Indonesia, and the Netherlands from 1962, which include the 1969 so-called 'Act of Free Choice' that placed West Papua into the Indonesian state. It argues the West Papuan people have been denied their rightful independence through a flawed decolonisation process as a result of multiple breaches of the Charter of the United Nations covertly orchestrated by the United Nations Secretariat. It examines the UN's collusion with Indonesia's Sukarno and Suharto dictatorships, and how the people of West Papua were illegally transferred to the United Nations, and subsequently to Indonesia. It also argues that there is an opportunity to correct this historical injustice through the United Nations system, as the process through which the incorporation was executed was conducted in contravention to the UN Charter.

### Keywords:

West Papua, Decolonisation, United Nations, International Law, Netherlands, Indonesia, Human Rights, Genocide, OPM

The Papuan people have a saying, ‘One People, One Soul,’ that reflects their common ancestry and Melanesian culture where land and resources are equally owned by all through their tribal groupings.<sup>1</sup> Papuan people, however, have been severely impacted by both colonialism and decolonisation. In 1826 the island was divided along an arbitrary vertical line—the 141<sup>st</sup> East Meridian—that separated Melanesian communities who have enjoyed autonomy for many thousands of generations. The people on the eastern side eventually gained internationally recognised independence, albeit under a Western-imposed European system of social representation, whilst those on the western side were transferred from the Netherlands to the United Nations in 1962 and then to the Republic of Indonesia in 1963. Since then West Papuans have been subject to an oppressive military dictatorship for nearly 60 years.

This paper examines why the people in the western side of the island were denied independence under the United Nations (UN) system of decolonisation whilst those in the east gained independence. It analyses the history of West Papua from when it was a Non-Self-Governing Territory of the Netherlands, then turns to the creation of Indonesia before assessing the conduct of the UN Secretariat prior to and during the period of UN and Indonesian administration up until 1969 when Indonesia assumed sovereignty over West Papua. This paper adds to the work by John Saltford—who analysed the 1962–1969 period of UN involvement in the Territory—and hopes to advance debate on the UN Secretariat’s breaches of international law and its complicity in the denial of the West Papuan people’s right to self-determination.

Using historical records, recently released archival material, and reports, the paper argues that: the UN brokered agreements between Indonesia and the Netherlands in 1949 regarding the transfer of sovereignty and the creation of the Republic of the United States of Indonesia were never upheld; Indonesia never intended to honour the 1962 UN brokered agreement between the Netherlands and Indonesia; the UN not only knew this but covertly assisted the drafting of the 1962 agreement and the transfer of authority in breach of its own Charter; Indonesia, with UN complicity, conducted a sham vote amidst brutal human rights abuses that continue to this day; and the UN could and should overturn the illegal annexation of West Papua due to the multiple breaches of international law and Indonesia’s consistent abuses of the human rights of the people of West Papua.

## Indonesia and West Papua in 1945

Following the signing of the Charter of the United Nations (‘Charter’) in June 1945, two parts of the island of Papua were designated as Non-Self-Governing Territories. To the east of the 141<sup>st</sup> Meridian Australia administered the United Nations Trust Territory of New Guinea<sup>2</sup> in the north and the Non-Self-Governing Territory of Papua to the south. On the Western side of the 141<sup>st</sup> Meridian was the Non-Self-Governing Territory of West New Guinea administered by the Netherlands.

Prior to Indonesia’s international recognition as a sovereign nation via admission to the United Nations on 28 September 1950, the founding fathers, Sukarno and Hatta, held little claim to the Non-Self-Governing Territory of West Papua. They respected the people’s right to determine their own future, and recognised that the people of Papua had little

1 Dr John Otto Ondawame, Director, West Papua Project, Centre for Peace and Conflict Studies, University of Sydney, personal communication (2000).

2 Formerly the colony of German New Guinea and later League of Nations mandate.

understanding of geopolitics. Indonesian historian Muhammad Yamin quotes the founding fathers speaking in 1945.<sup>3</sup>

Sukarno stated: As to Papua, I do not know the desires of the people of Papua, but I am willing to assume that the people of Papua has as yet no understanding of politics. We are not the heirs of the Dutch. We will not negotiate with the Dutch or with the British, but we will talk with Japan and Japan will decide what the territory of Indonesia will be.

Hatta stated: Personally, I am quite willing to state that I do not bother at all about Papua: that can be left to the people of Papua themselves. I recognise that the people of Papua too has the right to be a free nation.

With the defeat of Japan in August 1945, the question arose as to the future of the Netherlands East Indies. The UN brokered the Round Table Conference in 1949 due to ongoing hostilities between Indonesia and the Netherlands. The United Nations Commission for Indonesia was established, resulting in the 1949 Round Table Conference in The Hague. The Netherlands agreed to transfer complete sovereignty over its East Asian empire in Indonesia to the Republic of the United States of Indonesia. This offer did not however include West Papua. Article 2 of the Charter of the Transfer of Sovereignty, stipulates that:

With regard to the residency of New Guinea it is decided ... that the status quo of the residency of New Guinea shall be maintained with the stipulation that within a year from the date of transfer of sovereignty to the Republic of the United States of Indonesia the question of the political status of New Guinea be determined through negotiations between the Republic of the United States of Indonesia and the Kingdom of the Netherlands. (United Nations Commission for Indonesia, Appendix VII: 67)

Agreement also included Indonesian recognition that: 'The clause in article 2 of the Draft Charter of Transfer of Sovereignty reading 'the status quo of the residency of New Guinea shall be maintained' means: 'through continuing under the Government of the Netherlands' (Appendix XXIV: 164–165). The Agreement Concerning the Assignment of Citizens further stipulated that: 'None of the provisions in this agreement shall apply to the nationality of the inhabitants of the residency of New Guinea in case the sovereignty over this territory is not transferred to the Republic of the United States of Indonesia' (Appendix XII: 88). Thus, it was agreed that the sovereignty of West Papua would remain with the Netherlands should agreement not be reached to transfer the Territory to the Republic of the United States of Indonesia.

A further outcome of the Round Table Conference was agreement that all Territories within the Netherlands East Indies, as listed in the Draft Constitution of the Republic of the United States of Indonesia 'unite in the federal relationship of the Republic of the United States of Indonesia in free self-determination' ('United Nations Commission' Appendix VI: 23). These Territories, not part of the Republic of Indonesia, thus had a legal right to determine whether they wish to join the United States of Indonesia or to remain separate. Article 2 part 1 of the Agreement on Transitional Measures states that:

<sup>3</sup> As translated and reproduced by the Netherlands representative Mr Schurmann in General Assembly Plenary Meeting 1055, para 205–211, 15 November 1961.

a plebiscite will be held amongst the population of territories thereto indicated by the Government of the United States of Indonesia upon the recommendation of the United Nations Commission for Indonesia or the other United Nations organ referred to, on the question whether they shall form a separate or component state. (United Nations Commission, Appendix XI, Article 2: 81)

Part 2 states that:

Each component state shall be given the opportunity to ratify the final Constitution. In case a component state does not ratify that Constitution, it will be allowed to negotiate about a special relationship towards the Republic of the United States of Indonesia and the Kingdom of the Netherlands. (81)

As such the UN brokered agreements arising from the 1949 Round Table Conference respected the autonomy and right of self-determination for the many Territories of the Dutch East Indies island archipelago, including the option to maintain a ‘special relationship’ with the Kingdom of the Netherlands. The autonomy of these territories and their right to self-determination were similarly agreed to by Indonesia in the earlier Linggadjati and Renville agreements of 1946 and 1948 respectively. These agreements, however, were never honoured, and Indonesia was never held to account.

On 12 December 1950, the UN General Assembly recognised that ‘the full independence of the Republic of Indonesia has been followed by the admission of that State to membership in the United Nations’ (General Assembly resolution 448 (V), 1950). Furthermore, Indonesia’s acceptance into the UN—as with all UN Member States—was on condition that it abide by the UN Charter (including those Articles governing decolonisation). As West Papua’s legal status was already determined to be that of a Non-Self-Governing Territory by the UN’s Decolonisation Committee, Indonesia thus had no *legal* claim to the Territory.

Soon after being accepted into the United Nations, however, Sukarno quickly forgot about the agreements arising from the UN brokered Round Table Conference regarding autonomy, plebiscites, and self-determination for the Territories detailed above. Only in 1952 did Sukarno turn his attention to the take-over of West Papua, the Non-Self-Governing Territory that was listed on the UN Decolonisation Committee as ‘Netherlands New Guinea’.<sup>4</sup> The Netherlands offered to have the dispute resolved by the International Court of Justice, it being ‘the principle judicial organ of the United Nations’ (Charter, Article 92), but Indonesia rejected this legally binding solution arguing that the dispute was political rather than juridical. With separatist movements still seeking to break away from the Indonesian dictatorship, the issue of West Papua was used by Sukarno as ‘a rallying point for national unity’ (Australian Embassy Washington 1958).

## Preparing all Papuan People for Independence: 1957–1961

Australia and the Netherlands had the obligation of preparing the Non-Self-Governing and Trust Territories they administered on the island of New Guinea for independence, as required under the Charter and associated General Assembly resolutions.<sup>5</sup> They recognised

<sup>4</sup> See for example ‘Territories on Which Information is Transmitted Under Article 73 e of the Charter (1960),’ UN Doc ST/TRI/SER.A/19.

<sup>5</sup> See Chapters XI, XII, and XIII of the Charter governing decolonisation and General Assembly resolutions 1514, 1541, for example.

the indigenous Melanesian culture and the need to coordinate their administrations so that the Papuan people might one day emerge as one nation. This was reflected in the 1957 Joint Netherlands/Australian Statement.

Furthermore, the Netherlands and Australian governments reported annually to the UN on progress being made towards delivering independence to the inhabitants of New Guinea as required under the Charter. The last Netherlands report in 1961 to the Secretary-General as required under Article 73e describes how:

[T]he institution of the New Guinea Council has had a catalytic effect on the political awakening of the population of the Territory with the population resolved: 1. to call themselves Papuans and to refer to their country as West Papua; 2. To design a flag of their own (the design of which was laid down by ordinance) and; 3. To adopt a national anthem to be played on official occasions after the Netherlands national anthem. ('Report on' 1962)

With increasing military incursions by Indonesia and no support from their traditional Allies, the Netherlands attempted to have the UN take over the Territory in 1961 via a UN Trusteeship, as available under Article XII of the Charter, in order to 'relinquish sovereignty to the people of Netherlands New Guinea' (General Assembly Plenary Meeting 1016, para 90). The proposal, however, failed to gain the required two-thirds majority in the General Assembly due to Cold War and religious affiliations taking precedence over the legal rights of the West Papuan people.<sup>6</sup> Pressure from the US government over Indonesia's threat to align with Communist Soviet Union was used to coerce the Netherlands into relinquishing the Territory to Indonesia (Kennedy 1962).

## The Indonesia Netherlands Agreement of 1962

On 15 August 1962, the Netherlands and Indonesia signed the *Indonesia and Netherlands Agreement (With Annex) Concerning West New Guinea (West Irian)* (herein the 'Agreement').<sup>7</sup> This was adopted by the UN General Assembly on 21 September 1962 under resolution 1752 (XVII), and commenced the UN's period of administration of the Non-Self-Governing Territory. The UN subsequently used its *discretion*—as available under Article XII of the Agreement—to transfer administration to Indonesia seven months later, on 1 May 1963.

Based upon Article 73e of the UN Charter, colonial Powers of Non-Self-Governing Territories must report on progress being made towards self-determination, except when these territories are subject to Chapters XII and XIII governing Trust Territories. The Agreement logically shifted West Papua's legal status from a Non-Self-Governing Territory of the Netherlands to a Trust Territory of the United Nations (Colony of West Papua 2012–17; McKinlay King 2017; Sui & Guzel 2018). Importantly, given that the terms of this draft Trusteeship Agreement were never 'approved' by the General Assembly, as required under Article 85 of the UN Charter, West Papua logically remains a Non-Self-Governing Territory having been abandoned by the Netherlands, occupied by United Nations Security Forces and subsequently invaded by Indonesia (McKinlay King & Johnson 2018: 72).

<sup>6</sup> See UN General Assembly Plenary Meeting 1066 for discussions and voting outcome and General Assembly Plenary Meeting 1055 for additional discussions.

<sup>7</sup> Often referred to as the 'New York Agreement' having been signed at the UN headquarters.

An opinion from the International Court of Justice on West Papua's legal status can be sought by the UN Trusteeship Council under Article 96 of the Charter as authorised by General Assembly resolution 171(III). Any member or inhabitant of the territory can lodge such a request under the Rules of Procedure of the Trusteeship Council via an agenda item or petition respectively (McKinlay King & Johnson 2018: 89).

## The United Nations Secretariat and Resolution 1752 (XVII) of 1962

While much has been written about breaches of the Agreement (Saltford 2003; Drooglever 2010; Janki 2010), a second agreement, 6312, *United Nations and Indonesia and Netherlands: Understandings Relating to the Agreement of 15 August 1962 Between the Republic of Indonesia and the Kingdom of the Netherlands Concerning West New Guinea (West Irian)*, was also signed on 15 August 1962. This second agreement is primarily concerned with the implementation of a cease fire, directions to the Netherlands to cease its legal responsibilities over the Territory, and financing the United Nations administration in West Papua. This agreement however was never presented to the General Assembly for consideration, debate, let alone voted on and approved. This agreement would, therefore, appear to have no legal standing under the Charter.

Agreement 6311 between Indonesia and the Netherlands was only provided to ambassadors for consideration on 19 September 1962—some 5 weeks after its original signing on 15 August in breach of Article 102 of the Charter<sup>8</sup>—and just 48 hours prior to its introduction to the General Assembly on 21 September at 3 p.m.<sup>9</sup> With such short notice, few governments had time to consider and discuss the draft Agreement prior to its introduction to the General Assembly. At Plenary Meeting 1127 of 21 September 1962, the President of the General Assembly effectively blocked discussion of the draft resolution, announcing: 'In order to enable the General Assembly to deal with this matter expeditiously, I propose to call first on the sponsors of the draft resolution and then, if the General Assembly agrees, to proceed to the vote' (General Assembly Plenary Meeting 1127: para 171). The continued threats and military invasions by Indonesia, the definition of the Territory under the Charter, and the terms of the draft Agreement were only raised *after* it had been introduced by the President, voted on, and adopted as UNGA Resolution 1752 (XVII). The resolution did not seek 'approval' by the General Assembly but instead only 'Takes note' of the Agreement, which legally 'neither approves nor disapproves' a General Assembly resolution (Ruder *et al.* 2011: 46).

Many countries spoke out after the Plenary Meeting, raising grave concerns for the West Papuan people. Representing Australia, Sir Garfield Barwick spoke at great length.<sup>10</sup> He drew attention to the requirement of self-determination for the inhabitants, and expressed Australia's desire that the peoples of the island could have the opportunity to unite as one nation as envisaged in the 1957 Joint Netherlands–Australian Statement. He drew the General Assembly's attention to the availability of the International Court of Justice to resolve disputes between UN Members, and he reminded the General Assembly that Australia only

<sup>8</sup> Article 102 of the *Charter* states 'Every treaty and every international agreement ... shall as soon as possible be registered with the Secretariat and published by it.'

<sup>9</sup> See General Assembly Plenary Meeting 1127, 21 September 1962

<sup>10</sup> See United Nations General Assembly Plenary Meeting 1127, Agenda Item 89, paragraphs 209–224, 21 September 1962. Sir Garfield Barwick also went on to sit as an ad-hoc judge with the International Court of Justice.

recognised the Netherlands' sovereignty over the Non-Self-Governing Territory. He suggested that the full weight of the claims of the indigenous inhabitants had been obscured, that a bona fide performance of the self-determination provisions in the Agreement was essential to maintain stability in the region, and that the welfare of the Papuans must be respected above all other considerations regardless of 'whatever the proper [legal] status of the Territory in relation to the Charter may be' (General Assembly Plenary Meeting 1127: para 209–224).

As revealed in the now-declassified secret archives from the period, Australia, like Indonesia and the United States, was fully aware of the legal status of West Papua as a Non-Self-Governing Territory, and that the draft Agreement was indeed a draft Trusteeship Agreement governed by Chapter XII of the Charter (McKinlay King & Johnson 2018: 86–88). Mr Zollner, representing Dahomey (now Benin), was less diplomatic. He stated that:

[A] people of 700,000 is transferred from one Power to another ... without previous consultation with the party chiefly concerned, the Papuan people ... Not once—I repeat, not once—do we find in the text any mention of a “referendum” ... and ... the actual public expression of opinion will be organised entirely by the party which has the greatest interest in the yielding of results that are favourable to it. (General Assembly Plenary Meeting 1127: para 242–243)

The behaviour by the President of the General Assembly at the time, Mr Muhammad Zafrulla Khan of Pakistan—denying time for Members to review the draft, debate, and no doubt amend before proceeding to the vote—invites scrutiny. As evidenced in earlier plenary meetings and resolutions regarding West Papua, Pakistan had consistently voted in support of Indonesia's claim to the Territory (General Assembly Plenary Meeting 509 1954, para 295). The actions of the President indicate that he was using his position to deny the West Papuan people's right to self-determination, and was instead supporting Indonesia's illegal claim to the Territory. Similarly, the acquiescence of the Acting Secretary-General, U Thant of Myanmar, head of the UN Secretariat, invites examination as to why the Secretariat waited a full five weeks before providing copies of the draft Agreement to UN Member states, and why the President of the General Assembly was not called to account for failing to facilitate debate before going directly to the vote.

Some explanation for these events may be found in the fact that just days prior to the introduction of the draft Agreement to the General Assembly, the Swedish Secretary-General Dag Hammarskjöld, well known for his ardent support for decolonisation, was killed in a plane crash in Katanga, the Congo. Hammarskjöld's death delivered the United Nations leadership to U Thant of Burma, a friend and supporter of Sukarno (General Assembly Plenary Meeting 1812: para 83). In the General Assembly deliberations leading up to resolution 1752 (XVII), Sweden was a great advocate for the West Papuan people's right to independence (General Assembly Plenary Meeting 447 1954: para 209) while Burma (now Myanmar) had often spoken at great length taking the side of Indonesia's illegal claim to the Territory (General Assembly Plenary Meeting 509 1954: para 238–265). The likely murder of Hammarskjöld (Borger 2017) and his replacement by U Thant thus played a crucial role in the denial of the West Papuan people's legal right to 'complete independence and freedom' as required under the 1960 UN *Declaration on the Granting of Independence to Colonial Countries and Peoples*.

An aide-memoire from the Acting UN Secretary-General U Thant contained in agreement 6312, *United Nations and Indonesia and Netherlands: Understandings Relating to the Agreement of 15 August 1962 Between the Republic of Indonesia and the Kingdom of the Netherlands Concerning*

*West New Guinea*, states that: ‘The transfer of authority to Indonesia will be effected as soon as possible after 1 May 1963’ (‘United Nations’ 1962: 10). This, however, is in contravention to Article XII of the Agreement—put before the General Assembly for adoption—which states ‘The United Nations Administrator will have discretion to transfer all or part of the administration to Indonesia.’ This instruction from the Acting Secretary-General U Thant was never provided to the General Assembly for review and debate, nor was the Assembly given the opportunity to vote and approve this second agreement affecting the fate of a Non-Self-Governing Territory.

The UN Secretariat colluded to delay the publication of the draft Agreement to Member’s ambassadors for dispatch and consideration, blocked debate, withheld clarification on the legal status of the Agreement, and prevented possible amendment before proceeding to the vote. The second agreement between the UN, Indonesia and the Netherlands was never dispatched to UN Members for consideration, nor introduced to the General Assembly for debate or discussion, which suggests the instructions it contained may have no validity under international law governed by the Charter.

## The Secretary-General’s Covert Assistance to Sukarno

A close examination of the conduct of the UN Secretariat with respect to the issue of West Papua shows multiple irregularities with the UN’s own Charter and processes, showing foreknowledge, breach of procedure, manipulation of process and covert conduct. Evidence gleaned from now declassified government archives, the UN archives from the period, General Assembly Plenary Meetings, and published news stories from the period demonstrate foreknowledge. A now-declassified American CIA document marked ‘TOP SECRET’ reveals the Acting Secretary-General U Thant was in collusion with President Sukarno to facilitate the Indonesian take-over. It states:

West New Guinea: Indonesia apparently is prepared to resume secret preliminary talks with the Dutch on West New Guinea under the auspices of Ambassador Bunker as soon as arrangements can be made. Foreign Minister Subandrio, who had just conferred with President Sukarno, informed the US ambassador of Indonesia’s position on 30 June. He added that the Indonesian delegate, Adam Malik, would be ready to begin discussions by 9 July at the latest. Indonesia’s decision apparently results from U Thant’s letter of 28 June to President Sukarno in which Sukarno was once more assured that the Netherlands is willing to postpone a plebiscite in New Guinea until after the transfer of the area’s administration to Indonesia. The Dutch still insist however on adequate safeguards for native self-determination.

Subandrio told the US ambassador that he hopes the transfer of West New Guinea’s administration to Indonesia can be accomplished as soon as possible. Sukarno has demanded a transfer before the end of 1962 rather than after the two-year period stipulated in the Bunker plan. Subandrio said he hoped the Dutch would not request a “cease-fire” in New Guinea while talks are in progress; he stressed that the discussions could break down on this issue. Indonesia officials have repeatedly stated that military operations in New Guinea will continue even if the talks resume ... (remainder redacted). (Central Intelligence 1962: 7)

The document confirms the US government had prior knowledge of the planned transfer of West Papua to Indonesia and reveals how Acting Secretary-General U Thant was taking

covert steps to assist Indonesia's takeover of West Papua, and was thus complicit in the sham vote that followed. Article 100 of Chapter XV of the Charter applying to the UN Secretariat states:

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as International officials responsible only to the Organization.
2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

The Secretary-General's covert assistance to Sukarno was in clear breach of Article 100 and thus a breach of international law. The Secretariat of the United Nations aided and abetted Indonesia's illegal territorial expansion over West Papua.

Indonesia's ongoing military aggression whereby 'military operations in New Guinea will continue even if the talks resume' is yet another breach of the UN Charter, where Article 1 states:

The purposes of the United Nations are: To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

Indonesia's ongoing military incursions, even during attempts for a negotiated settlement with the Netherlands, occurred in clear violation of international law. As Member States of the UN, the USA, Indonesia, and the Netherlands are legally bound to uphold the Charter—not to mention the Secretariat of the United Nations itself—yet all secretly colluded against the legal rights of the West Papuan people.

Prior to United Nations officials arriving in West Papua, United Nations Security Forces (UNSF) arrived in late September. The all-Pakistani UNSF were made available by the Acting Secretary-General under Article VII of the Agreement. Their presence in West Papua was first revealed on 26 September by the President of the General Assembly, just five days after the Agreement had been introduced to the General Assembly (General Assembly Plenary Meeting 1133: para 40). It seems that the Acting Secretary-General had made prior arrangements with the Pakistani government in anticipation that the draft Agreement would be adopted unchallenged by the General Assembly.

## United Nations Takeover on 1 October 1962

British scholar John Saltford accessed previously classified United Nations archival documents from the period of UN administration resulting in a doctoral thesis and publication appropriately subtitled *The Anatomy of Betrayal* (Saltford 2003). These now declassified United Nations Temporary Executive Authority (UNTEA) documents further reveal the UN's culture and complicity in human rights abuses during this period.

Article VII of the Agreement gave the Secretary-General the ‘discretion’ to utilise the Indonesian armed forces in West Papua—a military commanded by members of the former fascist Japanese Imperial Army (Tjandraningsih 2009: 1) and the former enemy of the Dutch and West Papuan people—who had already made numerous armed incursions seeking to illegally take-over the Territory in breach of international law. Given the terms of the Agreement are not in accord with General Assembly resolutions governing decolonisation and the Charter,<sup>11</sup> nor had they been ‘approved’ by the General Assembly as required under Article 85 of the Charter, the arrival of the Pakistani UNSF organised by the Acting Secretary-General without United Nations Security Council approval may be deemed a military occupation, if not an invasion. Prior to the arrival of the United Nations in West Papua—but *after* the Agreement had been adopted by the General Assembly—the Netherlands referred the Agreement to the New Guinea Council for their opinion. It was vehemently opposed with half the councillors walking out in protest. One councillor predictably described it as a ‘death warrant’ (Saltford 2003: 21).

The UNTEA took over administration of West Papua from the Netherlands in October 1962, just weeks after the adoption of General Assembly resolution 1752. As detailed earlier, the Netherlands reported yearly to the UN on its progress towards decolonisation. UNTEA in 1962 however—as the new administrator and trustee of the still Non-Self-Governing Territory or Trust Territory—failed its legal obligation to report either to the Secretary-General under Article 73e of Chapter XI governing Non-Self-Governing Territories, or to the General Assembly under Article 88 of Chapter XIII governing Trust Territories, regarding the administration’s progress towards decolonisation.

In breach of Article XIII of the Agreement, whereby United Nations security forces will be replaced by Indonesian security forces *after* completion of the first phase on 1 May 1963, UNTEA allowed the invading Indonesian security forces to assist during its period of administration. Within weeks of UNTEA’s arrival, Indonesia commenced a campaign for the early withdrawal of the UN and the abandonment of the act of self-determination. One UNTEA Divisional Commander informed the Administrator that the people had no faith in the Dutch nor Indonesia, and correctly predicted that once Indonesia was in charge, it would coerce 99 percent of the population to vote in favour of remaining with Indonesia (Saltford 2003: 61). In direct violation of the Agreement guaranteeing freedom of speech and assembly, planned flag raising ceremonies across the Territory on 1 December 1962 to commemorate the first anniversary of the raising of West Papua’s Morning Star flag were banned by UNTEA following threats of violence from the Indonesian armed forces (Saltford 2003: 73).

Indonesia clearly had no intention of adhering to the Agreement, nor guaranteeing the right to self-determination, and West Papuans were fully aware. On 20 November 1962, the West Papuan Chairman of the Committee on Self-Determination of New Guinea wrote to the Acting Secretary-General, drawing his attention to the following news reports:

1. REUTER reports the arrest by the Indonesians of Silas PAPARE on November 10 because of his starting a campaign for an independent New Guinea. The anti-Dutch Papuan Papare has since 1949 devoted himself to the affiliation of West New Guinea to Indonesia, where he became a member of parliament as a representative of West Irian. He was a member of the Indonesian delegation at the signing of the Accord on New Guinea in New York on August 15.

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11 See General assembly resolutions 1514 and 1541 in particular

2. A.P. reports that the Commission of Foreign Affairs of the Indonesian Parliament has decided that Indonesia take over control of New Guinea by the end of this year and that no plebiscite be held in 1969; this decision has been passed onto the Indonesian Parliament.

We are of the opinion that the Reuter report shows us what exactly the chance of the Papuans ever to decide on their future will be. (Ritzens Bos 1962: 1)

On 15 November 1962, Indonesian troops blocked a road near the town of Sorong and assaulted passing Papuan police. An armed police detachment then returned accompanied by 300 civilians to attack the Indonesian troops but were thwarted by a UN police inspector. On 10 December, Indonesian troops opened fire on an anti-Indonesian demonstration in the town of Merauke injuring two people, while in Sorong Indonesian troops attacked a Papuan police station killing one and injuring three (Saltford 2003: 74).

An UNTEA report from Divisional Commander G.S. Rawlings dated 12 December 1962 describes the general attitudes of the Indonesians and West Papuans at the time and clearly recognised the coming Indonesian invasion:

The Indonesians strike me as out to attain their ends quite ruthlessly if necessary. They brook no serious discussion of facts or ideas contrary to their doctrinaire beliefs. In fact, in this they are very like the Japanese before the war. It cannot be long before they get themselves most intensely hated ... By far the majority of the Papuans in my Division dread the consequence of the Indonesian invasion and it would take little to influence some of them to resist, whether it would do them any good or not. (Rawlings 1962: 4)

A three-day visit to West Papua by UN Under Secretary-General Narisimhan in February 1963 saw him meet not one single West Papuan representative due to threats from Indonesian intelligence officers upon the local population (Saltford 2003: 93). Also in February after allegedly being fired upon by Indonesian troops, the Papuan Volunteer Corps staged a mutiny and demanded the expulsion of all Indonesians. The Indonesian troops ran back to their barracks, and the following day the Indonesian Corps commander in collusion with UN officials had the Papuans disarmed by deception (95).

In the Administrator's Report to the Secretary-General dated 30 April 1963, Dr Djalal Abdoh draws attention to Indonesia's planned militarisation of the Territory. In diplomatic language, he states:

The possibility of the exercise of certain control by the military in the affairs of the territory was confirmed by the fact that, although sometime ago the Indonesian Government announced that the control of Indonesia by the War Administration would end on 1 May, the execution of this decision has been put off for the time being. The fact that the Indonesians planned to make West Irian a province of the Republic of Indonesia indicated that the same sort of control might apply also to this territory after 1 May ... Towards the end of April, twenty air force planes landed in the territory with our approval to take part in the 1 May ceremonies. Also, some thirty warships and supporting vessels arrived in Biak and Hollandia waters. (Abdoh 1963: para 29–31)

In the same report under the heading 'Representative Bodies' it details Dr Sudjarwo's statements to the Indonesian press on 17 April that the elected New Guinea Council 'would be replaced by a provincial council composed of members nominated by President Sukarno' (para 45). Self-governance was clearly outlawed.

## Discretion to Transfer Administration to Indonesia

Under Article XII of the Agreement, ‘The United Nations Administrator will have discretion to transfer all or part of the administration to Indonesia at any time after the first phase of the UNTEA administration.’ Indonesia’s numerous military threats, incursions, and thwarted invasions leading up to the signing of the Agreement, the continuing military incursions after the signing of the cease-fire agreement (also in breach of the Charter), seven months of increasing Indonesian hostility, armed assault and murder, not to mention ongoing protests and petitions from the Papuan people themselves, indicate that the UN transference of administration to Indonesia did not promote peace and security, let alone prepare the Territory for a free and fair act of self-determination. The failure by the UN to use its *discretion* highlights yet again complicity in the illegal transfer of this Territory and its peoples to the fate of a brutal military regime.

## Indonesian Takeover on 1 May 1963

Speeches on 1 May by the United Nations Administrator Dr Abdoh failed to mention the required act of self-determination, while a speech delivered by Under Secretary-General Narisimhan on behalf of Secretary-General U Thant ended with saying only that he was confident Indonesia will ensure the people’s right ‘to express their wishes in the future’ before he and all remaining UN personnel flew out of West Papua ‘that very night’ (Saltford 2003: 107). Article XVI of the Agreement states:

At the time of transfer of full administrative responsibility to Indonesia a number of United Nations experts ... will be designated to remain wherever their duties require their presence. Their duties will, prior to the arrival of the United Nations representative, who will participate at the appropriate time in the arrangements for self-determination, be limited to advising on and assisting in preparations for carrying out the provisions for self-determination except in so far as Indonesia and the Secretary-General may agree upon their performing other expert functions. They will be responsible to the Secretary-General for the carrying out of their duties.

In breach of the Agreement, not a single UN official remained in the Territory to advise, assist, and prepare the people for the act of self-determination.

With no UN presence—or any other international observers for that matter—the Indonesian military was unrestrained. Now-declassified secret US dispatches describe how they commenced a program of loot and plunder. A now declassified US report by Frank Galbraith reads:

Perhaps the most oft-cited grievance of the Irianese is that the Indonesians cleaned out the shops and storehouses in the period immediately following their takeover of West Irian administration in 1963. Missionaries reported that they had witnessed Indonesian military personnel loading up Air Force planes at night with goods taken from local merchants. Within months of Indonesian takeover on May 1 1963, there was an acute shortage of food and consumer goods. (Galbraith 1969)

The human rights situation also deteriorated markedly. Indonesia introduced Anti-Subversion Law No 11 and Presidential Decree No 8. Ondawame (2010: 54–55; 70–71) describes how these denied the Papuan people: ‘freedom of expression, association, demonstration, publication, and movement ... [while the new laws] empowered the Indonesian authorities

to intervene, arrest, detain, and imprison any suspected Papuan political activists.' This was in direct contravention of Article XXII of the Agreement guaranteeing 'free speech, freedom of movement and of assembly,' and of Article 55 of the Charter regarding fundamental freedoms and human rights. The United Nations Secretariat remained silent and thus complicit.

Frank Galbraith's report also detailed how military commanders run the local towns, 'expropriate' commodities intended for sale, and operate as a 'fiefdom of vested ... interests.' He describes them as 'trigger happy' with a backdrop of '[m]ilitary oppression fears and rumours of intended genocide' (Galbraith 1969: 3–4). Indeed, the fear of genocide amongst the population soon became a reality.

In 1964 the new Under Secretary-General Rolz-Bennett made a visit to West Papua and received numerous petitions from Papuans demanding independence. And according to one Australian diplomat, the USG was 'disinclined to discuss Article XVI' of the Agreement requiring UN experts to remain in the Territory and participate in the arrangements for self-determination (Saltford 2003: 108). Australian government documents from the time reveal that Indonesia was very pleased when the Under Secretary-General informed Indonesia that he had received petitions but was 'ignoring them.' Three years later in 1967 the Papuan petitioners were taken from Teminabuan Prison and publicly executed (115).

## Organised Resistance: The Birth of *Organisasi Papua Merdeka* in 1965

In 1965, after nearly four years of military oppression, mass murder, and anticipated genocide, the West Papuans were driven to defend themselves forming a guerrilla revolutionary army of 14,000 people, and took to the jungle. The Indonesians named the guerrilla force 'Organisasi Papua Merdeka' (OPM) (Ondawame 2010: 64).

Their first assault was on Indonesia's Kebar military post near Manokwari on 26 July during an Indonesian flag raising ceremony which resulted in three Indonesian soldiers being killed. The revolutionary army raised the Morning Star flag and made their first declaration of independence. Two days later they attacked the Indonesian Battalion 641 in Arfak seizing 1,000 arms and destroying military and police posts (Ondawame 2010: 64). A now declassified US Telegram 542A dated September 15 1965 under the heading 'Manokwari Rebellion' describes the Indonesian military's response: 'Indo reaction was brutal. Soldiers next day sprayed bullets at any Papuan in sight and many innocent travellers on roads [were] gunned down' (United States Embassy Djakarta 1965).

## The Under Secretary-General and the 'Act of Free Choice' in 1969

On 29 June 1967, General Suharto appointed Sarwo Edhie as Commander of West Papua, now renamed 'West Irian,' in an effort to eliminate the OPM prior to the upcoming Act of Free Choice ('Act').<sup>12</sup> Edhie was praised in the Indonesian media describing how he: 'acquitted himself with great distinction by unleashing a campaign of terror and extermination against all elements traditionally opposed to the central government in Jakarta' (Saltford 2003: 135). Due to the ongoing OPM rebellion, Indonesia delayed the arrival of the United Nations

<sup>12</sup> Article XVIII of the Agreement states 'Indonesia will make arrangements, with the assistance and participation of the United Nations Representative and his staff, to give the people of the territory the opportunity to exercise freedom of choice.' This is commonly referred to as the 'Act of Free Choice.'

Representative Ortiz-Sanz until 23 August 1968. Based in Jakarta, the Secretary-General's Representative rarely visited the West Papuan territory, and then only accompanied by Indonesian officials who provided the only transport and controlled the agenda (Saltford 2003: 140).

The Secretary-General's Representative received several hundred petitions, with the vast majority opposed to Indonesia taking control of West Papua. They called for 'one man, one vote,' complained that the Representative Councils were solely appointed by Indonesia, and detailed how the people were forbidden to criticise the Indonesian administration. Reliant on logistical support from Indonesia, UN representatives witnessed only 195 of the 1026 Assembly Representatives being selected across the vast territory to take part in the Act of Free Choice, and failed to report on the conduct and method employed (Saltford 2003: 190). Petitions also called for the Indonesian administration to be replaced by the UN until the Act of Free choice had been held, and demanded the release of political prisoners, estimated at 900, across the Territory (Saltford 2003: 142).

The response of the Secretary-General's Representative was to state that, regrettably, the United Nations did not have the executive authority under the Agreement to deal with these issues (Saltford 2003: 141). However, under the Agreement—not to mention the international law of the Charter and the Universal Declaration of Human Rights—freedom of speech, freedom of association, and self-determination according to international practice are guaranteed. The role of the United Nations was to provide experts, maintain a presence, advise and participate, and ensure such legal rights were upheld. Instead, the UN's Ortiz-Sanz advised Jakarta to transfer 'anti-state' Papuans to Java, thus aiding and abetting Indonesia's human rights violations, while students and others were imprisoned in fear of protest during the so-called Act of Free Choice (197).

Newspapers leading up to, and during, the day of the Act of Free Choice reported that all foreign journalists had been expelled, 10,000 West Papuans had been killed in continuing battles, and 2,000 West Papuans had been jailed for urging self-government. News stories detailed how Indonesia had hand-picked only 1026 Papuan representatives to cast votes out of an estimated population of 700,000 ('Free choice' 1969). The New York Times printed admissions from the Indonesian government that they had no intention of allowing an act of self-determination: 'We are going through the motions of the act of free choice because of our obligation under the New York Agreement of 1962 ... But West Irian is Indonesian and must remain Indonesia. We cannot accept any alternative' (Shabecoff 1969). While guerrilla warfare was being waged against the Indonesian military in the jungle, underground networks mobilised the people. On 13 April 1969, two days before the last Act was conducted in Jayapura, petitions containing thousands of signatures were handed to the Secretary-General's Representative demanding independence. This was followed by a rally of more than 5,000 people who marched through the capital shouting *Merdeka! Merdeka!* (Freedom! Freedom!). Speakers called for direct UN intervention to guarantee the international practice of 'one-man, one-vote' and to demilitarise the Territory. They urged the United Nations and Indonesia to respect the UN Charter and the Universal Declaration of Human Rights. The Indonesian military 'responded with an iron fist firing on the massed crowd indiscriminately' (Ondawame 2010: 72–73).

Australian academic Edward Wolfers was one of a handful of independent observers who witnessed the Act of Free Choice in 1969. In 2014 Wolfers detailed, for the first time on record, how the Indonesian authorities threatened and intimidated the population as they conducted mock rehearsals of the Act. In the township of Manokwari he saw a young man

calling for independence ‘swooped on’ by the Indonesian military, while Indonesian warships appeared to have their cannons trained on the local population. He recalls how when his group walked about in public: ‘we frequently had letters of protest thrust at us saying that the former Dutch New Guinea should be free, [or] being spoken to quietly to similar effect by people who approached us [who] suddenly become silent ... if they suspected they were being watched or overheard’ (Hill 2017: 19–22).

Now-declassified secret dispatches expose that the USA, United Kingdom, and Australian governments were fully aware of the views of the West Papuan people and the atrocities being perpetrated by the Indonesian military. In Frank Galbraith’s report under the heading ‘West Irian: The Nature of the Opposition,’ it states: ‘Regarding the magnitude of the opposition to Indonesian rule ... possibly 85 to 90 percent, are largely in sympathy with the Free Papua cause or at least intensely dislike Indonesians.’

This dispatch further reveals that the West Papuan people were fully aware of the UN’s complicit role in denying their rightful independence and describes how: ‘[b]old activists declare their intention to assassinate UN Ambassador Ortiz-Sanz (or Ambassador Sudjarwo, Interior Minister Amir Machmud, or military commander Sarwo Edhie) the next time he comes to town’ (Galbraith 1969: 3). Another declassified US dispatch dated 4 October 1968 details a meeting with Ortiz-Sanz in Jakarta following his first visit to West Papua. It states he was ‘attempting to devise a formula for an “act of free choice” in West Irian which will result in affirmation of Indonesian sovereignty’ (Lydman 1968: 2) in clear violation of international law governed by the Charter. Another American dispatch in June 1969 headed ‘Assessment of West Irian Situation’ reports that the Act was: ‘unfolding like a Greek Tragedy, the conclusion preordained ... [where Indonesia] ... has no intention of allowing West Irian choose other than incorporation into Indonesia. Separation is unthinkable.’ This document reveals that the US government recognised Indonesia as a Javanese dictatorship, and that the loss of West Papua ‘would give impetus to fissiparous tendencies in other parts of [the] archipelago where anti-Java feelings run strong ... [and] ... distrust of Indonesians (such as already exists in Sumatra, Minahasa, and Ambon) toward [the] Javanese’ (United States Embassy 1969: 1–3).

Throughout this process, the Secretary-General’s Representative was covertly planning the transfer of a Non-Self-Governing or Trust Territory to a hostile military dictatorship. The dispatches above also reveal the full knowledge that US officials had of the transfer, and their failure to act in accordance with the Charter.<sup>13</sup>

## The United Nations Secretariat and Resolution 2504 (XXIV) of 1969

Article XXI of the Agreement requires Indonesia and the United Nations Representative to submit final reports to the Secretary-General who will report to the General Assembly on the ‘conduct of the act of self-determination.’ UN delegates only received the Secretary-General’s report one or two days before a draft resolution on the report was tabled for discussion in the General Assembly on 13 November 1969. In Plenary Meeting 1810 numerous requests were made by Member States to have the report released earlier to allow time for consideration. As expressed by the representative for Dahomey, UN delegates were ‘[o]bviously [unable] to transmit it to [their] respective Governments for study and for instructions’ (General

<sup>13</sup> Under Articles 55 and 56 of the UN Charter, all Member States pledge themselves to uphold ‘the principles of equal rights and self-determination of peoples.’

Assembly Plenary Meeting 1810 1969: para 42). Several other delegates requested two- or three-week postponements as the documents needed to be sent by post to their governments for consideration, and their governments then needed to reply.

Representing Togo, Mr Ohin made the Assembly aware of numerous breaches of the terms of the Agreement and recalled how he had encountered the very same difficulties when his country 'was under the trusteeship of the United Nations,' where United Nations missions 'encountered hindrances and faced great difficulties created by the Administering Authorities' (General Assembly Plenary Meeting 1810 1969: para 76). He recognised the importance of West Papua's legal status and emphasised that 'any report submitted by a mission returning from a Trust Territory or non-independent country must be studied with great care [and that] the fate of the inhabitants ... the Papuans, seems to have been relegated to the background' (General Assembly Plenary Meeting 1810, 1969: para 78).

After several more delegates demanded additional time, it was agreed to adjourn the meeting by six days with a new date fixed at 19 November 1969. Reconvening discussion in Plenary Meeting 1812, Mr Nicol (representing Sierra Leone) expressed his country's 'grave concern at the methods adopted,' noting that the Secretary-General's Representative observed how the West Papuans had been denied full 'freedom of speech and expression.' He stated that the educated West Papuans had 'a strong desire for the complete independence, eventually, of the whole island' and suggested that the entire Papuan population be given the opportunity for self-determination but 'this time by international standards of freedom of speech and election' (General Assembly Plenary Meeting 1812, 1969: para 3, 4 and 9).

Mr Akwei (representing Ghana) drew the Assembly's attention to Indonesia 'having withdrawn its co-operation with the United Nations during the period 1 May 1963 to 23 August 1968,' which meant that, by default, the terms of the Agreement were ignored. He noted Indonesia's rejection of the Secretary-General Representative's advice for direct voting in the towns and cities, and the Representative's displeasure with Indonesia's system of consultation. He detailed the many breaches of the Agreement saying it makes 'a mockery of the democratic process and a breach of the principle of self-determination, a principle so clearly enshrined in the Charter of the United Nations' and proposed a new act of self-determination in accordance with international practice (General Assembly Plenary Meeting 1812, 1969: para 15-44).

In Plenary Meeting 1813, Mr Davin (representative of Gabon) drew attention to the lack of time made available to examine such an important document and the fact that 'only Government authorized organizations, and not opposition movements, were able to present candidates' (General Assembly Plenary Meeting 1813, 1969: para 12). Similarly, the representative for Zambia could not understand why the Secretary-General's Representative found it acceptable to agree to Indonesia's consultation with '1,000 notables appointed by the Indonesian Government ... unless of course the Agreement has been amended since.' He further detailed how the Secretary-General's Representative had received both written and oral complaints regarding 'suppression of the rights and freedoms of the inhabitants' in direct violation of article XXII of the Agreement (General Assembly Plenary Meeting 1813, 1969: para 62-63).

The General Assembly rejected an attempt by Ghana to adjourn the debate to allow for the preparation of amendments to the draft, however, it adopted an amendment by the Republic of the Congo (Congo-Léopoldville) for a separate vote on the words 'Takes note of the report of the Secretary-General' (General Assembly Plenary Meeting 1813, 1969: para.

119–170). The plan by the Secretary-General's Representative to have the report: 'submitted to the [General Assembly] sometime towards the end of the 1969 session in order to avoid continuing, possibly contentious, debate if the report were delivered earlier in the UNGA session' (United States Department of State 1968: 4) was thus successful.

In the General Assembly Plenary Meeting 1813 of 19 November 1969 the General Assembly adopted Resolution 2504 (XXIV), which:

1. *Takes note* of the report of the Secretary-General and acknowledges with appreciation the fulfilment by the Secretary-General and his representative of the tasks entrusted to them under the Agreement of 15 August 1962 between the Republic of Indonesia and the Kingdom of the Netherlands concerning West New Guinea (West Irian);

2. *Appreciates* any assistance provided through the Asian Development Bank, through institutions of the United Nations or through other means to the Government of Indonesia in its efforts to promote the economic and social development of West Irian.

Like resolution 1752 (XVII) of 1962 concerning the Agreement, resolution 2504 (XXIV) concerning the Secretary-Generals report, never received General Assembly 'approval' and, as defined by the United Nations Secretariat, the wording 'takes note' is neither approval nor disapproval (Ruder *et al.* 2011: 46). Thus, the General Assembly never approved the contents of the report, or the sham 'Act of Free Choice.' It was only noted. Speaking at the UN on 11 September 2019, however, Indonesia still argues that resolution 2504 was 'approved' by the General Assembly in justifying the continued occupation of West Papua (Yasmin 2019).

The Act of Free Choice has been used since 1969 by Indonesia to stake its claim for the full incorporation of West Papua into its territory. As the above argument has shown, the Act of Free Choice was manipulated by Indonesia with the covert assistance of the United Nations Secretariat in violation of international law. The Agreement and the Act of Free Choice thus have no legal standing. And, by default, West Papua has never legally been incorporated into Indonesia. As the co-founder of International Lawyers for West Papua, Melinda Janki, put it: 'There is nowhere anywhere in the United Nations General Assembly a resolution which says the General Assembly approves the integration of West Papua into Indonesia' (Janki 2017).

## Discussion

After the United Nations takeover in September 1962, and more so under Indonesian occupation from May 1963, the people of West Papua were subjected to Indonesian military oppression including mass murder, starvation, terror, and torture—mass human rights violations that meet the definition of genocide under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Brundige *et al.* 2004; Wing & King 2004; Elmslie & Webb-Gannon 2013).

While genocide is yet to be proven in a competent court, and access to West Papua by the international media and United Nations human rights investigators is still denied despite Presidential guarantees ('UN Rights Chief' 2019), the Indonesian military's systematic acts of terror and atrocities continue to emerge on a near daily basis.<sup>14</sup> While the OPM freedom fighters continue guerrilla warfare ('OPM Rebels shoot' 2019), the recent civil uprising

14 Via social media West Papuan activists and supporters are reporting on the ongoing oppression. See for example webpages Stop the West Papuan Genocide, and Free Papua Movement on Facebook.

across the Territory ('Thousands Take to the Streets' 2019) sparked by racial abuse and police harassment of Papuan students in Surabaya is a new development and highlights both the desperation and mounting bravery of the Papuan population. Social media and connection to the outside world is raising awareness and increasingly puts Indonesia under the spotlight to the point where the regime took the unprecedented action of blocking the internet ('Indonesia Extends Mobile' 2019) after footage emerged showing the Indonesian military opening fire upon the demonstrators (Langeberg 2019) and mobilising thousands of additional police and military in fear of further uprisings and international attention (Dyah DA 2019). While many were killed by the police and military, the uprising has resulted in the Indonesian president being reported to have agreed to discuss demands for independence ('Governor Says Jokowi' 2019). Another East Timor now looms on the horizon, raising the spectre of increased separatism and national dissolution.

The root cause of this oppression however rests not with Indonesia but with those responsible for the covert manipulation of international law that allowed Indonesia to take control. As demonstrated in this paper, the conduct of the Secretariat of the United Nations in the case of West Papua puts the United Nations into irretrievable disrepute and makes it complicit in the ongoing genocide and oppression by the Indonesian military from that time onwards.

In a letter to the Acting UN Secretary-General in 1962, the Chairman of the Committee for Self-Determination for New Guinea forlornly warned:

The Dutch were forced to leave New Guinea and abolish their solemn pledge towards its people. The U.N. stepped in. We should be grateful to learn what steps the U.N. will take to ensure the rights of the people, inclusive of its right to real self-determination. We express the hope that your World Organisation will not bow for any machinations on the side of Indonesia, lest what hope we can still have in it, since its behaviour in the Dutch-Indonesian dispute about New Guinea, gets completely lost. (Ritzen Bos 1962)

The independence that was planned for the Papuan people by Australia and the Netherlands was hijacked, along with the right to autonomy and self-determination for the other territories of the former Dutch East Indies. Failure by the United Nations, and the international community generally, to hold Indonesia to account only encouraged further human rights abuses and territorial invasions. This was continued under Suharto in an even more brutal fashion with successive Indonesian leaders failing to address their appalling history of human rights abuses. Arguably under the doctrine of Responsibility to Protect, Indonesia has abrogated any claim, however spurious, to occupy West Papua.

The General Assembly's 1960 resolution 2621 (XXV) *Programme of Action for the Full Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples*:

Reaffirms the inherent right of colonial peoples to struggle by all necessary means at their disposal against colonial Powers which suppress their aspiration for freedom and independence ... [and directs] ... Member States [to] render all necessary moral and material assistance to the peoples of colonial Territories in their struggle to attain freedom and independence.

Under Article 4 of the Charter governing membership of the United Nations, all Member States have a legal obligation to uphold the laws of the Charter. And under Articles 55 and 56

all Members pledge to take joint and separate *action* in co-operation with the United Nations to uphold the principles of equal rights and self-determination.

This exploration of the covert and illegal actions by the UN and Member States in the case of West Papua's decolonisation shows clearly that such noble principles as equal rights and self-determination are in deficit. If Member States cannot uphold the international law of the Charter and protect human rights, surely, the international community has a moral if not legal obligation to render all necessary moral and material assistance so that Papuans can again live as 'One People, One Soul.'

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