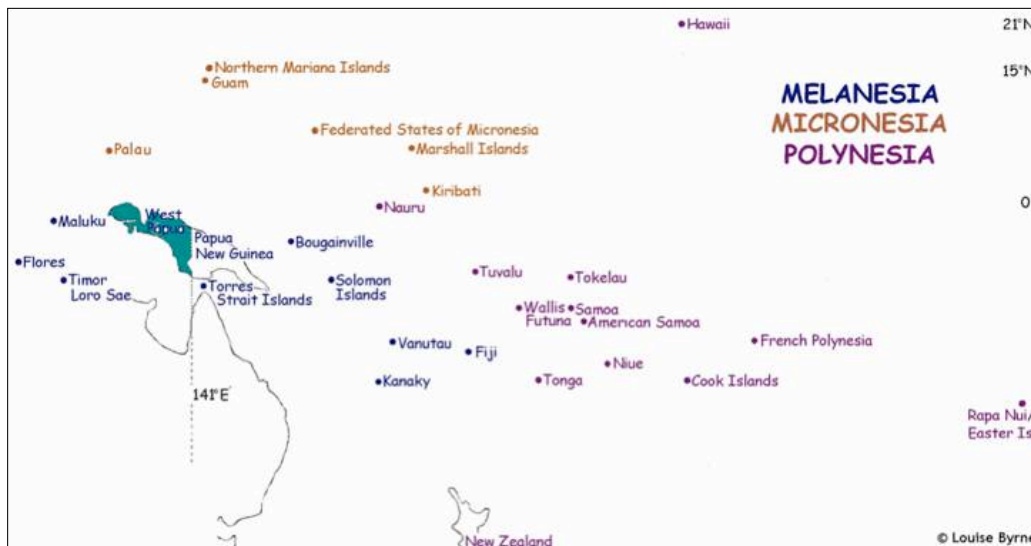
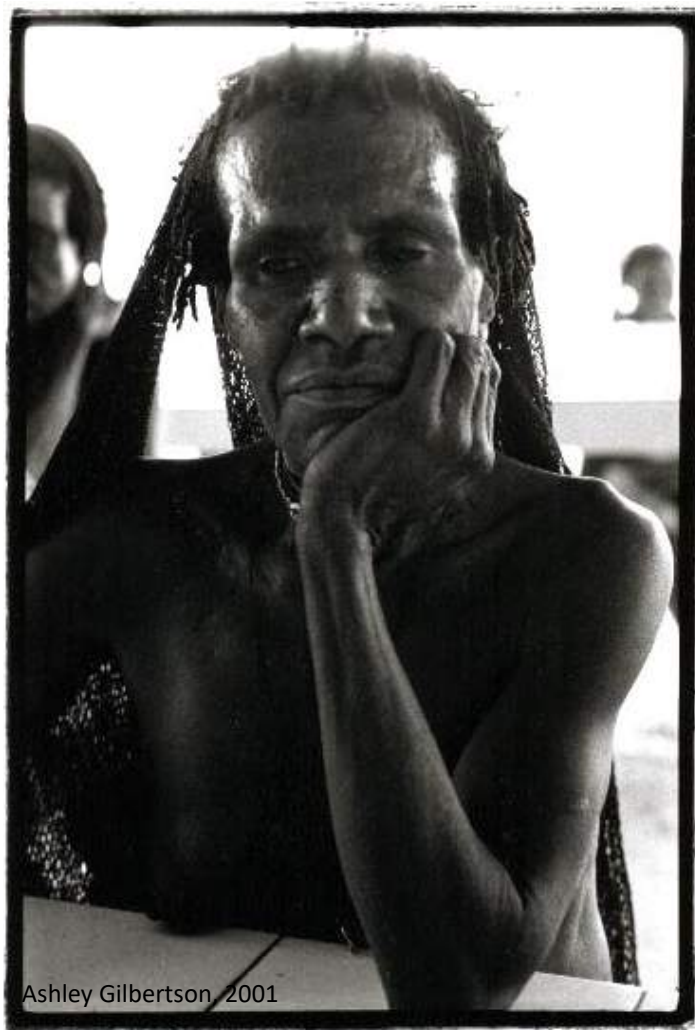


## WEST PAPUA 1942 to 2022 the legals, the politics, and the only way forward



JACOB RUMBIK (2022), Foreign Affairs,  
West Papua Transitional Government

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Ashley Gilbertson, 2001

## **WEST PAPUA 1942 to 2020: the legals, the politics, and the only way forward**

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# INTRODUCTION

When we march on the street calling for a referendum  
Indonesia arrests and kills us

When we invite media to hear our stories  
Indonesia bans them from entering

When we tell the world what is happening  
Indonesia cuts off the internet

Under Indonesian occupation  
West Papua is the biggest prison in the world.

*Benny Wenda, 23 September 2019*

Sections 1 and 2 of this document cover West Papua during World War II (1942–44) and as Non-Self-Governing Territory (1950–1962). Section 3 details manoeuvring by Indonesia, the United States and the United Nations to turn the territory into an Indonesian colony. Section 4 sketches the West Papuans' program to be registered on the UN Decolonisation List. Section 5 is a rebuttal of Indonesian claims to justify its occupation of the West Papuans' 459,412 kms<sup>2</sup> of richly resourced Melanesian land.

The Japanese and Allies' military occupations between 1942 and 1944 changed a marginal Dutch colony into an active player in Pacific affairs. The Papuans experienced terrible loss, mainly from Allied bombs, and torture mostly from the Japanese, and were left with a lot of foreign blood and bones in their soil. But they also became aware of powerful technology, and the camaraderie between the Allies white soldiers and their black-skin colleagues. General MacArthur's appreciation of self-determination surprised them, especially his appointment of a popular policeman, Jan van Eechoud, as Resident, who immediately established a national Police School, Defence Force, and Civil Service training academy.

On 6 December 1950, the United Nations recognised West Papua as a Non-Self-Governing Territory with the Netherlands as Administering Power. With the passage of Res. 448 (V) social, economic, and political development was based on principles of self-determination adopted by the Netherlands Inter-Departmental

Commission in 1951, aired by Queen Juliana in her 1952 address and enshrined in Dutch legislation in 1953.

The Netherlands' Article 73e reports to the UN for the next ten years illustrate the Dutch progressing the nation of tribal-traditional peoples towards independence with purposeful consideration. However, after the death of UN Secretary-General Dag Hammarskjöld in September 1961, the General Assembly rejected the Netherlands' motion to place its Non-Self-Governing Territory on the UN Decolonisation List. This betrayal of the UN's founding principle was all that Indonesia needed to declare (on 19 December 1961) that it was annexing what it called 'a Dutch puppet state'. On 15 January 1962 it launched a military invasion.

Hammarskjöld's replacement, U Thant, didn't condemn Indonesia for its use of military force against a Non-Self-Governing Territory. Instead he oversaw a 'peace treaty' between Indonesia and the Netherlands (New York Agreement), whereby the administration of West Papua was transferred from the Netherlands to the UN and then Indonesia. He also appointed a team of UN Military Observers to enter to West Papua (without Security Council authorisation) and employed 1500 Pakistani troops rather than a multi-national force (for which there are no official UN documents). The Dutch did manage to have 'self-determination' included in the New York Agreement, but all the member-states knew that Indonesia didn't recognise the principle (and still doesn't despite its constitution declaring every nation's right to it). **Consequently there has never been an act of self-determination in West Papua.**

The Republic of Vanuatu is sponsoring a motion to register West Papua on the UN Decolonization List. In 2019 the Pacific Islands Forum (which includes Australia and New Zealand) and the African Caribbean Pacific Group (79 UN member-states) passed preparatory motions **calling on all parties to address the 'root cause' of the conflict**, and on Indonesia to allow the UN Human Rights Commission to undertake the Fact-finding mission that it agreed to in 2017.

The 'root cause' of the conflict is the breach of West Papuans right to self-determination, an international legal issue that Indonesia insists is simply a 'domestic, separatist' problem. An UNHCR report will undoubtedly



ORPHAN, NDUGA, DECEMBER 2018, after the Indonesian Air Force dropped bombs of the banned chemical white phosphorous on highland villages.

“The real problem is that West Papuans own the land that Indonesia wants. As a Christian I feel very guilty about being a governor because I am of no use to the people. We are pressured, terrorized and intimidated. We are considered to be the enemy of the country. I am sure that what I say you will hear directly from the Papuan people when you meet them.”

Governor Lukas Enembe, to World Council of Churches delegation in February 2019.

conclude, as all major Papuan institutions did in 2010, that Indonesia’s ‘special’ autonomy since 2001 has failed as spectacularly as its ‘regional’ autonomy’ between 1969 and 1999. Failed, principally, because Jakarta structured them not to drive ‘local autonomy’ but to enhance ‘national security’. So while the 2001 version very publicly partitioned the province, it quietly tripled the number of ‘districts’ to which are assigned a set formula of land, air and sea defence personnel and military infrastructure.

Indeed, after fifty years of ‘autonomy’ West Papuans are still at the bottom of Indonesia’s human development index. They are calculated by 2030 to be a ‘dwindling minority’ of just 15% of the population. (In 1962 they were 99%; in 2010 they were 30%, with a growth rate of 1.6% compared to the non-Papuan rate of 10.5%). Moreover President Jokowi has reverted to Sukarno/Suharto-like fixes. In 2019 he appointed as Defence Minister Prabowo Subianto (a former military-general with an atrocious human rights record), and Vice-President Mar’uf Amin—a powerful Islamic cleric who won’t countenance West Papuans predominately Christian independence movement.

In 2014, Papuan leaders established the United Liberation Movement for West Papua (ULMWP) as an ‘inclusive, representative, united body to carry the independence program’. In 2015, ULMWP lobbying delivered West Papua from ‘the dark’ to ‘the light’ when the Melanesian Spearhead Group accepted its application for membership. Its lobbying since has galvanised the Pacific Islands Forum and African Caribbean Pacific Group to pass resolutions in advance of registering West Papua on the UN Decolonisation List. The ULMWP has also appointed Vanuatu to raise the motion in the UN, before which member-states should consider the following *legal facts*:

1. West Papua under international law is an Indonesian colony, and West Papuans are under illegal alien rule.
2. Colonialism is illegal under international law. West Papua has a legal right to be free and a legal right to independence. This is not just a moral right, or a political right. It is a legal right.
3. The legal right to self-determination is guaranteed by the UN Charter, under customary international law, and in the New York Agreement that Indonesia signed with the Netherlands in 1962 (Melinda Jenki, ICJ, 2010).





**NEWSPAPER CAPTION.** "Sobs for mama. The smile of Sgt. George C Yount from Fresno is spurned as the native boy yells for his mother; somewhere in Dutch New Guinea, 5 Nov 1944".

(Fresno Bee newspaper, California, 8 December 1944). Yount was on General MacArthur's personal staff, and died in 2012.

## WORLD WAR TWO, WEST PAPUA 1942-1944

*No one knows how many West Papuans were killed, starved, maimed, raped, or how much of their sacred land was destroyed during the Japanese and Allied occupations between 1942 and 1944. American and Australian historians have ignored this theatre of war, and never acknowledged the support they received from West Papuans; yet produced tomes about the same war in East New Guinea and local 'fuzzy wuzzy angel' support. Indonesia's Java-based independence movement under Sukarno collaborated with the Japanese, impressed by the empire's rhetoric of 'Asia for Asians'.*

*Indonesians colonial experience was very different to the West Papuans. In 1600 the Dutch gun-fired entry into Java and the Moluccan spice islands, and slowly amassed control over a vast territory and a huge number of people whose labour generated profit for the Dutch state. It was not until 1898, three-hundred years later, that the Dutch set up an administration post in West New Guinea. Thus the West Papuan 'colonial' experience from 1855 until World War Two was primarily with missionaries who brought modern education and health to the villages that they were 'civilising' and 'christianising'. They experienced less racism from the Europeans than from the missionary 'gurus' (Indonesian mission-graduates) who from 1942—after the incarceration/execution of the Dutch—interpreted and implemented the Japanese commands.*

*During the Allies blitz along the north coast in 1944 US General MacArthur appointed Jan van Eechoud, the former Police Commissioner of West New Guinea, to lead 'mopping up' operations (capturing Japanese soldiers). Both men believed in self-determination, and by the end of 1944 van Eechoud had established three national Papuan institutions: Police School, Defence Force (Papuan Volunteers Battalion/PVK) and a Public Service Training School. In 1946 West Papua joined the new South Pacific Commission, where Papuans met and danced with their Oceanic kin in the heady post-war climate of self-rule and independence. Indonesians meantime were preoccupied with their vicious war of independence which lasted from 1945 until 1949.*

After the Dutch East Indies surrendered on 8 March 1942, Japan invaded West New Guinea and by December 1942 had occupied the major coastal towns and islands. The Papuans did not view the Japanese as liberating heroes, unlike the



**OAKTREE PARTY:** a commando-intelligence group that covered vast tracts of the Highlands for 14 months in 1943-1944. Led by District Officer JV de Bruijen, Oaktree raided Japanese posts, cut bridges, created diversions, negotiated boundaries with tribal chiefs, trained pigeons, organised supply drops, informed the people. Its reports were sent to the Allies base in Merauke and Intelligence headquarters in Melbourne. Oaktree and the West Papuans in Kokkelink's commando-group (that worked in the Birdsheed) formed the PVK (Papuan Volunteers Battalion) established in 1944.



peoples of Nederlands-Indië (Indonesia) who believed they would free them from the European's exorbitant powers of censorship and exile, and from slaving for a colonial export industry that by 1938 produced 15% of the Netherland's national income (Penders 2002:34). In contrast, by 1942 the colonial administration in West Papua only covered 5% of the territory (Poulgrain Ch 2:67), and the people were much more familiar with the European missionaries—Protestant in the north since 1855, Catholics in the south since 1894—who were charged with bringing modern education and health practices to the villages they were 'civilising and christianizing'.

By 1943 the Allies had established a military base at Merauke in the ritual heartland of the Marind tribe; and five radar stations on the outskirts of the tribe's territory, with a sixth further west in Asmat territory. At its peak the Merauke base serviced 7000 Dutch, American and Australians—including Pilot Officer Gough Whitlam (Australia's Prime Minister 1972-75) and 60-80 Torres Strait Light Infantry (who were critical for exploratory surveys but paid much less than their white colleagues until they went on strike).

In April 1944, the Allies commenced a devastating blitz of West Papua's north coast, producing horrendous casualty and destruction. The Battle for Lone Tree Hill, a coral formation just 53m x 1.1km<sup>2</sup> was 'the bloodiest ten days in the entire New Guinea campaign ... and as severe as any fought in the Pacific' (Thomas E Price) with 400 Americans killed, 1500 wounded; 3,870 Japanese killed, 11,000 dead from sickness and starvation. Similarly, the fight for Biak Island, just 72km long x 37 km wide, produced 474 Allied deaths, 2,428 wounded; and 6,100 Japanese killed, 4,000 dead. Hollandia, a small village, was turned into one of the great war bases:

"Sides of mountains were carved away, bridges and culverts were thrown across rivers and creeks, gravel and stone were poured into sago swamps to make highways as tall as Mississippi levees. Tremendous docks were constructed, and 135 miles of pipeline were led over the hills to feed gasoline to the airfields. **Where once I had seen a few native villages and an expanse of primeval forest, a city of 140,000 men took occupancy**" (Lt-Gen Robert Eichelberger *Our jungle road to Tokyo*, 1950).

*left*—**DUTCH NEW GUINEA POLICE (1944)** guiding civilians returning to Hollandia (Jayapura) through Japanese-occupied territory after the Allies assault in 1944. The police were from the Police Training School that Resident Jan van Eechoud set up (under General MacArthur) in Merauke in 1944 and transferred to Hollandia in 1945.



**TORRES STRAIT LIGHT INFANTRY BATTALION.** From 1943, Torres Strait Islanders were based in Merauke on the south-east coast of West Papua. An Australian Army Intelligence agent is quoted as saying *I would rather fight with them than against them.*

“In proportion to population, no community in Australia contributed more to the WW2 effort than the Melanesian men of the Torres Strait Islands” (Reg Ball, 1996).

Prior to the blitz, General MacArthur appointed Jan van Eechoud, the former Police Commissioner as Acting Resident of West New Guinea, who immediately began setting up infrastructure for what he believed would be an independent nation. Using 2,000 Japanese prisoners-of-war as labourers, by the end of 1944—while the Netherlands itself was still occupied by the Nazis, and Nederlands-Indië (Indonesia) was still occupied by the Japanese—van Eechoud had established three important and enduring Papuan institutions: a Police School, a Papuan Volunteers Battalion (defence force of 400 armed soldiers) and a Public Service Training School (Amapon Marey, 2012:pp95-100).

The Allies transferred West New Guinea back to the Netherlands on 25 January 1946, by which time Van Eechoud was preparing to enrol the blossoming nation in the new South Pacific Commission alongside the other Melanesian island-colonies and nascent-states. Indonesia meantime maintained its alliance with Japan, until it surrendered in September 1945, then immediately launched a war of independence with the Netherlands that lasted until 1949.

West Papuans’ learned much from their war experience of seeing black American soldiers working alongside white Americans, and Aboriginal and Torres Strait Islanders in uniform alongside their colonial masters. To then find themselves—under a much reformed Dutch administration—in the uniform of Papuan institutions, and as part of an international organisation like the South Pacific Commission, increased their confidence and rendered meaning to their biblical understandings of God’s arrangement of the world (“from one man he made all the nations ... and he marked out ... the boundaries of their lands”).

All this meant that by 1950 even the most cautious Papuan could sense more logic and opportunity as a UN Non-Self-Governing Territory than as part of a new, unorganised, and extremely fragile Indonesian state.





**HMAS ARUNTA, 22 April 1944.** F McGuinness of Liverpool (NSW) and R Gough of Melbourne ready their torpedoes as the Royal Australia Navy destroyer moves to shore during the invasion of Tanahmerah Bay on the north coast of West Papua.

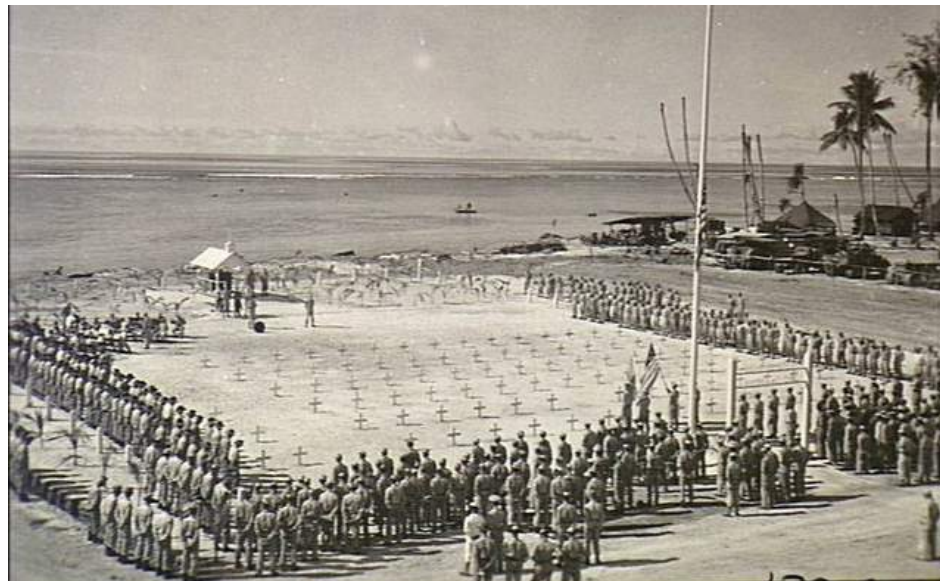
**Gough Whitlam** (Australian Prime Minister 1972-1975) was part of the Allies assault on Hollandia, posted to Merauke in April 1944 as Pilot Officer 13th Squadron RAAF. **Frank Robertson**, father of Geoffrey Robertson QC, was a Flying Officer in the 75<sup>th</sup> Kittyhawk Squadron in Biak in 1944 and took part in the Allies blitz.

**Russell Costello** (father of Peter—Federal Treasurer 1996-2007; and Tim—Baptist minister and CEO of World Vision Australia) was rescued and rehabilitated by Biak-Noemfoor Islanders after his plane was shot down in Geelvink Bay. Before he died in 2016, Mr Costello honoured his war debt by paying for the education of Meki Nawipa, a young Papuan whose [Indonesian] scholarship to an Australian college was cut after a friend posted a Morning Star flag on his facebook page.

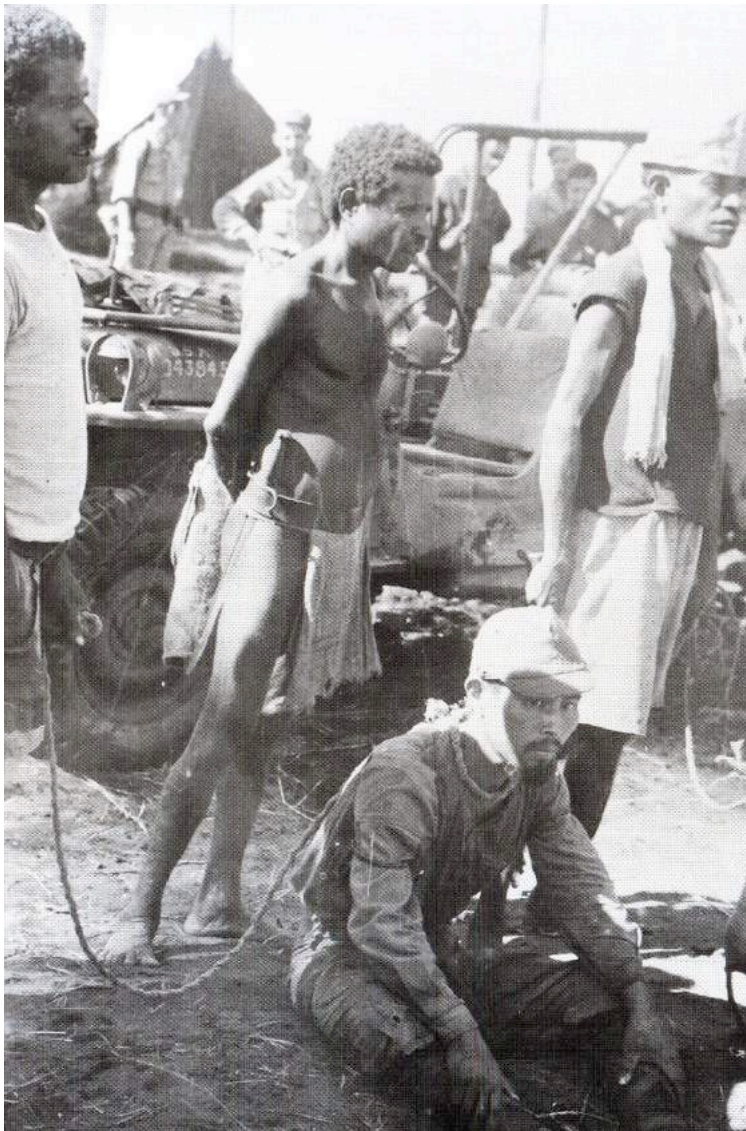


**NOEMFOOR ISLAND, OCTOBER 1944.** Curtiss Kittyhawk 78 Squadron. Len Waters, the first Aboriginal RAAF pilot, was based in Noemfoor in 1944.

**ALLIED MEMORIAL SERVICE, NOEMFOOR ISLAND, 1944.** "At the war cemetery where Americans and RAAF members who fell at Noemfoor are buried".







**PAPUAN VOLUNTEERS BATTALION (PVK) WITH JAPANESE PRISONER 1945.** The PVK was established in 1944 out of two Papuan war-time commando-intelligence groups. 200 PVK joined Resident Bessems in Manokwari in November 1945 for the Japanese Surrender Ceremony.

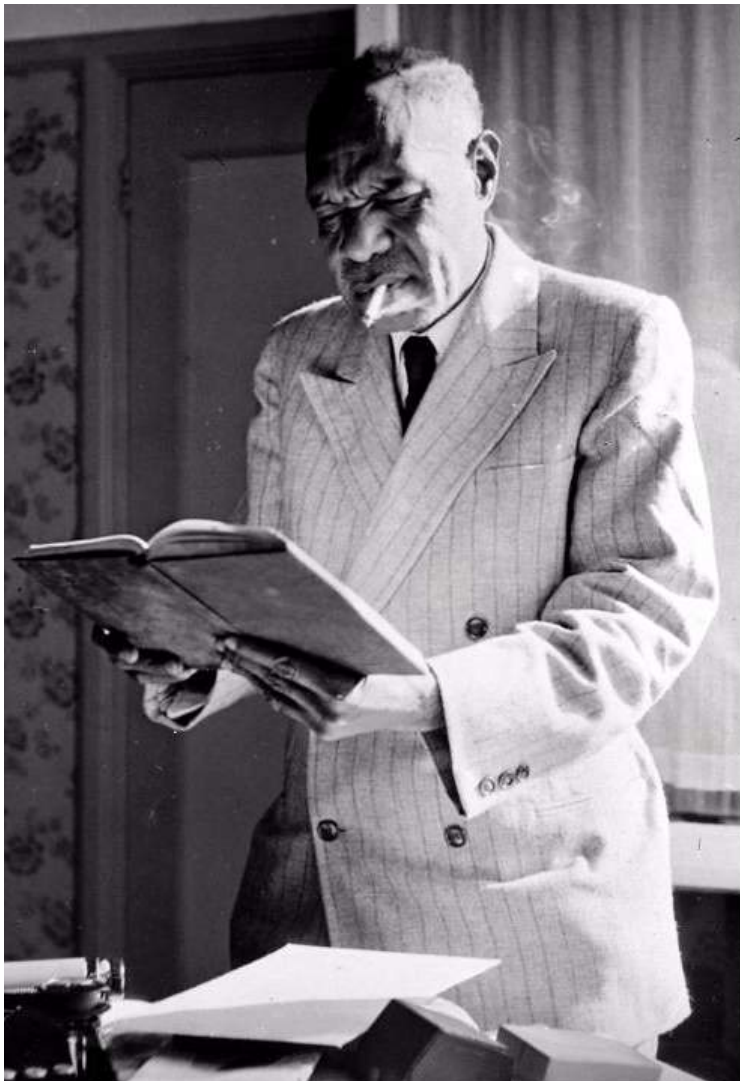


**PAPUAN SOLDIERS, MANOKWARI, 1949.** After the war the PVK became part of the Dutch Army. "As bush soldiers the Papuans excelled, couldn't be matched. They knew the jungle inside out, and just as they tracked down Japanese during WWII, so they tracked down Indonesian infiltrators throughout the 1950s" (Dutch Veteran).

**AIRCRAFT CEMETERY, BIAK ISLAND, 1947.**







**JOHAN ARIKS.** Born an Arfak man in the Kebar Plains of the Birds Head, educated in theology in West Java; pastor of Mansinem Island from 1914; from 1931 lecturer at the teacher-training college in Mei where the first generation of Papuan freedom thinkers and fighters were educated. Ariks was the first Papuan to direct international attention to the Papuan national cause. On 1 July 1965 he was jailed for 'anti-Indonesian' speech; in 1967 he died in prison aged 70. (At Ipenburg 2004).

## WEST PAPUA AND THE UNITED NATIONS

### West Papua as Non-Self-Governing Territory 1950-1962

*For twelve years between 1950 and 1962, the Dutch and West Papuans implemented a well-funded well-organised self-determination program in their Non-Self-Governing Territory. "There was an undeniable desire for human development shared by the Dutch and the Papuan civil servants in the 1950s that made the situation quite different from the pre-World War II situation" (Leontine Visser 2012:p3).*

*During the same period, Indonesia, desperate for recognition of 'its' sovereign territory, wilfully misinterpreted international law, refused to approach the UN International Court of Justice, burdened its impoverished citizens with a massive weapons debt, and earned itself recognition as a belligerent neo-colonising state. All its military, political and media attacks on the Non-Self-Governing Territory between 1950 and 1960 fail.*

Between 1950 and 1962, social, economic and political development in *Nederlands Nieuw Guinea* was based on self-determination principles adopted by the Netherlands Inter-Departmental Commission in 1951, aired in Queen Juliana's 1952 address, and enshrined in Dutch legislation in 1953. The Netherlands Administering Power generated major advances in health and education (primarily through long established Christian institutions and networks); developed export economies to dovetail Papuan subsistence economies; and built institutions for an emerging state. Investment in the territory by 1961 was Fl 91 million per year (up from Fl 15 million in 1950) with plans to 'papuanise' the civil service (to 90-95%) with teachers, health workers, administrators, and police, including positions requiring tertiary education (Penders, CLM 2002:p391).

The political Decolonisation Program included setting up three Papuan-majority advisory councils in 1951; and establishing regional councils as training grounds for politicians in Mimika (1953); Yapen, Hollandia, Schouten Islands, Sorong and Manokwari (1955); Fak fak (1958); and Biak-Numfor (in 1959 but since 1948 as Kankain Kankara Biak). The councils were tasked with administering local affairs, levelling tax, implementing and enforcing local ordinances. They were the underpinnings of the territory-wide elections in 1961 for the national Nieuw-Guinea RAAD/council (Penders, CLM 2002:pp385-400).

**On 15 June 1949**, before the Round Table Talks between the Netherlands and Indonesia, Johan Ariks (left), a Papuan teacher-pastor trained in Java but back in Papua since 1914, wrote to the UN Commission for Indonesia:

- i) condemning Indonesia's involvement in deliberations about the political future of West New Guinea as an attack on the Papuan right of self-determination;
- ii) arguing that while West Papuans were not ready for full independence they were quite capable of giving a valid opinion about political ties with Indonesia;
- iii) pointing to many regions in Indonesia where the number of tertiary and secondary educated was much smaller than in West New Guinea; and that power was being transferred from the Dutch to just 0.0035% of the population (ibid:pp154-56).

## UN RESOLUTION 448 (V), 12 DECEMBER 1950

*The General Assembly,*

*Considering* that Resolution 222 (III) adopted by the General Assembly on 3 November 1948, while welcoming any development of self-government in Non-Self-Governing Territories, considers that it is essential that the United Nations be informed of any change in the constitutional position and status of any such Territory as a result of which the responsible government concerned thinks it unnecessary to transmit information in respect of that Territory under Article 73e of the Charter,

*Noting* the communication dated 29 June 1950 from the Government of the Netherlands in which it is stated that the Netherlands will no longer present a report pursuant to Article 73e on Indonesia with the exception of West New Guinea,

*Noting* that the full independence of the Republic of Indonesia has been *followed by the admission of that State to membership in the United Nations*,

1. *Takes note* with satisfaction of the communication of the Government of the Netherlands with reference to the cessation of the transmission of information on Indonesia;

2. *Requests* the Special Committee on Information transmitted under Article 73e of the Charter to examine such information as may be transmitted in future to the Secretary-General in pursuance of General Assembly Res. 222 (III), and to report thereon to the General Assembly.

## OFFICIAL UNITED NATIONS RECORDS

Indonesia *voted for* Res. 448 (V), representative Mr Tajipnaips thanking India for presenting the draft resolution (Par. 221, UNGA, 16th Session, Official Records, 1055<sup>th</sup> meeting, 15 November 1961, Pars 197–255).

Following Res. 448 (V) the Netherlands submitted Article 73e Reports on West New Guinea for twelve years, which the Committee on Information and the Fourth Committee accepted and discussed. During this time Indonesia never submitted a draft resolution to the effect that this reporting should cease (Par. 223).

Since the General Assembly decided in 1950 that Netherlands New Guinea was a Non-Self-Governing Territory under Netherlands administration and has acted accordingly in respect of twelve annual reports on that Territory, Indonesia cannot reverse that decision, except by a judgment of the International Court of Justice, which it has refused—and which it still refuses—to elicit (Par 224).

**28 August 1949** After the UN-auspiced Round Table Talks began in the Hague on 5 August 1949, Ariks wrote to the President of UN General Assembly:

“Irian opposes with all its might the imperialistic inclinations of Indonesian leaders who aim to bring our country and our people under the domination of a foreign people and foreign state with which it has never kept up friendly relations and cooperation of any kind. It determinedly and resolutely refuses to be negotiated on as a piece of merchandise without being heard” (ibid).

**5 August—2 November 1949** UN-auspiced Round Table Talks transfers sovereignty of Nederlands-Indië to a *federal* United States of Indonesia **without West Papua**. No West Papuans were invited to the three-month conference, but late in October Johan Ariks, Nicholas Jouwe and Marcus Kaisëpo managed to get to the Netherlands (but not to the talks) where their articulate arguments stiffened the resolve of the Dutch negotiators to keep West Papua out of Indonesia.

**12 December 1950** UN Resolution 448 (V) directs the Special Committee on Information to examine Article 73e Reports from the Non-Self-Governing Territory of West New Guinea (left) which track the development of self-government, and remain a legal obligation of the Administering Power until the territory attains full self-government (i.e., an act of self-determination).

**January-February 1961** Territorial elections for New Guinea RAAD which “officiated as a Parliament with all its powers” (Dutch Governor Platteel) with 22 West Papuans in the 28-seat representative body (including Mrs Tokoro-Hanasby). The RAAD was tasked with making known, within a year, the West Papuan peoples wishes on self-determination.

**5 April 1961** The Netherland’s Government formally installs Nieuw-Guinea RAAD in front of representatives from every region in West Papua, as well as an array of international media, and 135 officials from the South Pacific Commission including governments of Britain, New Zealand, France and Australia. (The United States accepted the Netherlands invitation, but didn’t attend). Australia’s delegation included Sir Paul Hasluck—Minister for Territories; Sir Alistair McMullin—President of the Senate; Brigadier Cleland (Administrator of Papua & New Guinea) and ten of the PNG Legislative Council that was opening ten days later (Video of the territorial elections and launch of (Nieuw Guinea RAAD, Dutch New Guinea in HD Color 1949-1962)



## 1. Indonesia's negotiations with the Netherlands 1950–1956

Article 2 of the 1949 Sovereignty Transfer Charter, stipulated negotiations over West New Guinea continue for twelve months. Negotiations failed and in 1956 Indonesia rescinded the agreement.

A Ministerial meeting in **March 1950** failed; a Fact-Finding Mission in **May 1950** produced two conflicting reports; a **Dec 1950 Conference** collapsed when Indonesia demanded sovereignty by June 1951. The meeting in **Jan 1952** collapses when Indonesia insists sovereignty had already been transferred, and rejected the Dutch offer to seek International Court of Justice advice. At meetings in **June 1954**, **Dec 1955**, **Feb 1956** Indonesia dismissed UN decolonisation principles as irrelevant and inadmissible (Penders, CLM 2002:178-265).

## 2. Indonesia's military incursions into West Papua 1952–62

1952 January, Gag Island (28 pro-indonesian Irianese).  
1953 January, Kaimana (pro-indonesian Irianese).  
1954 Kaimana (42 secretly trained Irianese)  
1960 9 Nov, South coast (23 Irianese in 'Guerilla Force 100').  
1961 14 Sep, Sorong, just before UN General Assembly (includes 32 Irianese in 'Guerilla Force 200').  
1961 Sukarno declares war ('Crush the councils in West Papua, Plant the Indonesian flag, Take control of the territory').  
1962 15 Jan, Kaimana: includes 111 Irianese in 'Guerilla Force 300', 3 x US C130 Hercules, 4 x West German jaguar torpedo boats  
1962 21 March, Raja Ampat (151 Irianese in 'Guerilla Force 300' Indonesian police rangers, with US AR-15 automatic rifles and trained secretly by US Army Special Forces on Okinawa).  
1962 26 April, 75 parachutes drop on Fak Fak and 80 on Kaimana.  
1962 15 May, Parachute drops on Fak Fak, Kaimana, Sorong, insertion of police rangers and 'Guerilla Force 400'.  
1962 25 June, Merauke, 214 commandos parachute into Merauke.  
1962 31 July, Sorong, 89 'Guerilla Force 500' + celebrity Herlina.  
1962 July, Battalions to Seram, Kei & Sulawesi for invasion of Biak.  
1962 7 Aug, Commandos into Fak Fak; Guerilla Force 600 on Misool  
1962 14 Aug, Parachute drops on Sorong, Merauke, Kaimana.  
1962 15 Aug, 45 commandos and 3 of Indonesia's 12 Soviet submarines invade Hollandia. (Data: Ken Conboy 2002:61-80).

## 3. Indonesia's media campaign in West Papua

This expensive effort was directed by Indonesia's 'National Front for the Liberation of West Irian' (see van der Kroef, J 1961:52).

## 4. Indonesia's failed UN motions: 1954, 1955, 1956, 1957, 1961.

**24 April 1961** Five days after the launch of the Nieuw Guinea RAAD in West Papua, President Kennedy meets President Sukarno in Washington. For a \$900,000 helicopter and \$100 million aid package Sukarno promises to rein in the Indonesian Communist Party and agrees to 'a short interim UN Trusteeship followed by an Indonesian takeover of West Papua' (Penders, CLM 2002:335).

**This handshake agreement became the core of the 1962 New York Agreement brokered by the United States and the United Nations that judassed the Netherlands decolonisation program in West Papua and pilloried a cardinal principle of modern international law.**

**18 September 1961** UN Sec-General Dag Hammarskjöld murdered three days before his scheduled introduction to the General Assembly of an OPEX plan for West Papua whereby the people were recognised as the sovereign owners of their land and a decolonisation program adopted for UN technical officers to assist an independent Papuan government for five years (Poulgrain, Greg 2015 Ch 2).

**19 October 1961** New Guinea RAAD Manifesto names the emerging state Papua Barat (not Irian), its people as Papuan (not Irianese) and its national flag and national anthem; and declares that on 1 November 1961 'in accordance with the ardent desire and yearning of our people for our independence' the Morning Star flag is hoisted alongside the Netherlands flag. The Netherlands Government accepts the manifesto but defers the flag-raising ceremonies to 1 December to allow for passage of its decolonisation motion in the UN General Assembly, which was more or less a replica of Hammarskjöld's motion.

**16 November 1961** The UN fails to pass the Netherlands decolonisation motion, refusing to recognize self-determination in the context of West Papua.

**1 December 1961** Back in West Papua, the New Guinea RAAD and the Netherlands Administration implement their 19 October legislation, raising the two flags and playing the two anthems in Decolonisation Ceremonies across the territory.

**19 December 1961** Indonesia declares war on 'the Dutch puppet state'.

**15 January 1962** Indonesia invades 'the Dutch puppet state'.

**15 August 1962** USA-driven UN-sponsored 'peace treaty' between Indonesia and the Netherlands is signed at UN Headquarters in New York. More commonly called the 'New York Agreement' the treaty transferred the administration of West Papua from the Netherlands to the UN, which six months later passes it to Indonesia.

**26 September 1962** The UN General Assembly votes to accept the terms of the New York Agreement that grants the United Nations authority to occupy and administer West New Guinea (West Papua).

## WEST PAPUA AS A UN NON-SELF-GOVERNING TERRITORY (1950-1962)



### Examples of Economic and Social Development:

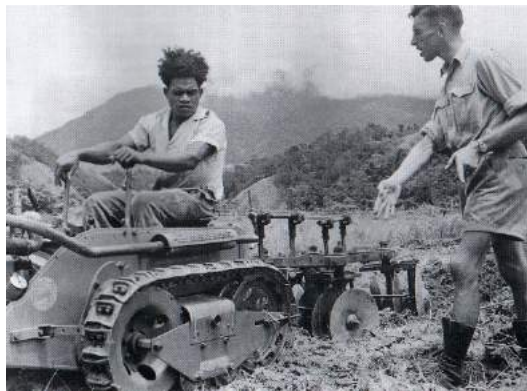
Netherlands New Guinea money 1949-62.

Mass immunisation program for malaria, yaws and tuberculosis by Netherlands Administering Power in association with World Health Organisation and the UN Childrens Fund (UNICEF).

Road-making in the interior in 1959.

Precision tractor-driving lessons in an agriculture-training school in 1955.

School in Sorong in the Birdshead 1962.





Highlander greeting Dutch Franciscan nuns.



The washing machine comes to New Guinea (photo in 1962 newspaper article about oil ...

“In Sorong an oil company (40% Dutch Shell, 40% Stanvac, 20% Pacific Investments) has a concession of 2 million acres and supports 200 men and their families. Production had resumed in 1946, with a port at Sorong and a pipeline and road to the fields in Klamond 36 miles away .... Ten million guilders has been

maintained after Klamono was abandoned in 1955. Now, with the search for more oil, helicopters are used. Holland spends 50 million guilders annually on development and 450 million on defense. Private investors are chary because the future of the territory is not clear.”

### Some of the Development Data in the Non-Self-Governing Territory of West New Guinea between 1950 and 1962

Education	1950	1955/56	1959/60	1961	1962
Elementary schools	25,791				32,686
Advanced primary	804				2,734
Secondary	20				430
Teacher training courses	95				504
Technical schools	70				212
Tertiary study in the Netherlands			29	50	
Tertiary study in Port Moresby				13	Medicine, Radio, Engineering
Tertiary study in Fiji				2	Medicine, Dentistry
Employment in the modern sector					
Graduates of the Administration School			50% of the 74 districts run by Papuan patrol officers		
Working Papuan civil servants		1,290	2,192		
Working Papuan village school teachers			966		
Papuan teachers in continuation schools			16		
Working Papuan nurses			270		
Type: Economy					
Production of logs		18,472m3	49,963m3		
Export of sawn timber (from Manokwari saw-mill)		51,000 guilders	1.118 million guilder		
Export of copal and damar			2.1 million guilders		
Export of copra (from coconut plantations)	2,945 tonnes		5,847 tonnes (3.9 million guilders)		
Nutmeg and mace		355 tonnes (1.9 m)	600 tonnes (3.45 million guilders)		
Export of cocoa			52 tonnes (90,800 guilders)		
Farming pilot programs					
Nimboran: food crops, fruit, export cocoa and coconuts			All 14 x 3-4ha pilot farms continue without financial aid		
Mappi: coconut, cocoa, rubber		75 families	1,000 hectares of coconut planted		
Yapen-Waropen: 880 farms			43 tonnes of cocoa		
Netherlands Budget for Development Program	f1 15 million			f1 91 million	
Papuans under direct administrative control		342,600	461,858 (+71,079 within radius of regular government patrol + 169,020 in Central Highlands still outside government umbrella)		
Plans for a plantation economy disbanded after findings that only 2 million (5%) of the 41.4 million hectares were arable; moreover, widely scattered in relatively small pockets					
Table prepared by Louise Byrne, 2015. Data Source Penders, CLM 2002: p391—400)					



## West Papua as a UN Non-Self-Governing Territory (1950-1962): political developments



**5 APRIL 1961**  
Queen Juliana's Address

"... Netherlands wants your people to take a dignified and equal stand in the community of the the modern world and the United Nations ....

This is the first step on the road that leads to the exercise of self-determination. May that turn out to be short ... Remain yourself and enter in the form that you choose based on your own nature....."

FEBRUARY 1961, Voting for New Guinea RAAD.



5 APRIL 1961, Launch of New Guinea RAAD.



5 APRIL 1961, Launch of New Guinea RAAD.  
The arrival of Sir Alistair McMullin, President of the Australian Senate.



**6 APRIL 1961**  
Sydney Morning Herald

"The RAAD should make its wishes known on self- determination within twelve months since by 1970 only a few foreign experts would still be needed."

Dr Bot, Dutch State Secretary for Home Affairs, added that Holland would continue to give material and financial aid to help achieve independence.'



MAY 1961, New Guinea RAAD voting on a proposal.

24 APRIL 1961, Presidents Sukarno and Kennedy, Andrews Air Force Base, USA. This meeting took place just after the launch of the New Guinea RAAD, which the United States of America refused to attend, and assembled the nuts and bolts of the 1962 New York Agreement.





**Dag Hammarskjöld, United Nations Secretary-General 1953–1961**

The lives of the West Papuan people and the quality of their territory would have been very different had UN Sec-General Hammarskjöld survived the plane crash designed to assassinate him on 18 September 1961. (15 UN executives, staff and airline crew were also killed).

The crash occurred three days before the 1961 UN General Assembly where the Secretary-General was scheduled to introduce his technical assistance program for West Papua and register the Non-Self-Governing Territory on the UN Decolonisation Agenda.

## **New Guinea RAAD, Manifesto Papuan Peoples Congress, Hollandia, 19th October 1961**

We the undersigned, residents of the western part of Papua, representing various groups, tribes and religious denominations, knowing that we are united as a people and a nation, do hereby declare to all our fellow countryman that we,

- I. in pursuance of Article 73 a and b of the Charter of the United Nations;
- II. on the strength of the declaration of principle regarding the independence of non-self-governing territories and peoples, as laid down in Resolution No. 1514 (XV) adopted by the General Assembly of the United Nations at its fifteenth meeting from September 20 to December 20 1960;
- III. by virtue of the inviolable right we, inhabitants of the western part of Papua, have to our native country;
- IV. in accordance with the ardent desire and the yearning of our people for our own independence,
- V. through the National Committee and our parliament, the New Guinea Council, insist with the Government of Netherlands New Guinea and the Netherlands Government that as of November 1, 1961,
  - a) our flag be hoisted beside the Netherlands flag;
  - b) our national anthem *Hai Tanahku Papua* be sung and played in addition to the Netherlands national anthem;
  - c) our country to bear the name of Papua Barat
  - d) our people to be called the Papuan people.

In view of the foregoing, we, Papuans, demand our own position, equal to that of the free nations, to live in peace and to contribute to the maintenance of world peace.

Through this manifesto we summon all those who love this country and its people to rally round and uphold this manifesto, as it is the sole basis for the freedom of the Papuan people.

W. Inury, D. Sarwom, F. Poana, A. Onim, F.J.S. Romainum, E. Itaar, M. Suwae, J.Jaab, J.J. Roembiak, M. Onggé, P.H. Jochu, Iz. Menufandu, M. Wai, N. Jouwe, P. Koejab, H. Mori Muzendi, W. Zonggonao, F. Jufuway, A.J.A. Rumtoboy, H.I. Bauw, B. Gebze, E. Noembery, J.S. Dekeniap, S.L. Rumadas, T.S. Akwan, H. Jomungga, M. Buotabui, F. Torey, M.W. Kaisiëpo, Th. Mezet, J.E. Bonay, N. Tanggahma, W. Giay, O. Nemnay, Sp. Malibela, T. Dansidan, A. Sefa, J. Manory, L. Ajamiseba, M. Romainum

**UN member-states in November 1961 who voted for the Netherlands motion, affirming West Papuan's right to self-determination:**

*Australia, Cameroun, Canada, Central African Republic, Chad, Togo, Congo (Brazzaville), Dahomey, France, Gabon, Israel, Ivory Coast, Madagascar, Mauritania, Niger, Senegal, Sudan, Togo, Upper Volta, United States, Western Europe, and most Latin American states.*

**UN member-states in November 1961 who voted for Indonesia's motion, denying West Papuan's right to self-determination:**

*Albania, Bolivia, Bulgaria, Bylorussian SSR, Czechoslovakia, Congo (Leopoldville) Cuba, Guinea, India, Jordan, Liberia, Mali, Mongolian People's Republic, Morocco, Nepal, Romania, Saudi Arabia, Syria, Tunisia, Ukrainian SSR, United Arab Republic.*

"In the view of the Australian Government, the Netherlands proposal has drawn from the UN Charter principles which provide an excellent basis for the settlement of the West New Guinea problem, and is in full accord with the principles of Res. 1514 (XV)" (Pars 24-53, General Assembly, 1055 Plenary Meeting, 15 November 1961).

"I am very favourably impressed by this new Dutch position which I think goes a long way towards establishing Dutch *bona fides* and exposing Indonesia's territorial ambitions" (Adlai Stevenson, US Ambassador to the UN, 18 September 1961, in Annette Culley 2016:p90).

## **UN PLENARY MEETINGS, 9th & 16th NOVEMBER 1961** **Netherlands Decolonisation Motion (based on Hammarskjöld's motion)** (from UN Legal Records, Ch XI, Art 73, Pars 846-868).

1. Recall Res. 1514 (XV), and note that the Netherlands had been administering Nederlands-Nieuw-Guinea under the terms of Ch XI;
2. Recognise the Netherlands wanted to implement the Declaration on Decolonisation under UN supervision and assistance, and was prepared to transfer sovereignty to the people of the territory;
3. Understand that the Netherlands powers would be exercised by a UN-designated international authority that would provide the territory with technical and economic assistance;
4. The Netherlands would maintain its financial aid to the territory;
5. Set up a UN Commission for Netherlands New Guinea to investigate implementation of Res. 1514 (XV) and Declaration on Decolonisation; the political, economic, educational and social conditions in the Territory; the peoples' view of their present and future; the possibility of a plebiscite and an international development authority.

To counter Indonesia's numerous and contradictory objections, thirteen member-states introduced an amendment that:

1. Recalls the principles in Resolution 1514 (XV);
2. Recommends the dispute could best be ended by negotiated settlement under the auspice of the Secretary-General, with respect for the will and self-determination of the people;
3. Appoints a commission of five to carry out an investigation if the parties had not reached a settlement by 1 March 1962. Commission would investigate conditions in the territory and the possibility of establishing an international system of administration without prejudice to the right of the population to decide the status of the territory.

*The amendment won a simple (53-41, 9) but not a two-thirds majority. Indonesia's counter motion also failed (41-40, 21).*

Such was the level of debate without Hammarskjöld's leadership that a



paragraph in this amendment—that the General Assembly states its conviction that any solution affecting the final destiny of a Non-Self-Governing Territory must be based on the self-determination of the people in accordance with the UN Charter—which was voted on separately, also failed (53-36, 14)!.

*The Nigerian Delegate* “What has greatly surprised us in this dispute is that one of the parties is not asking for the opinion of the people of New Guinea, although that would have been a good starting point in order to remove any possible misunderstanding. It is for the people of New Guinea themselves to say, in the present circumstances, who is entitled to claim sovereignty over their territory until they themselves, by referendum or by some other means, decide their own fate. It should be agreed in this dispute that the voice of the people of New Guinea ought in no case to go unheard” (UNGA Debate, 1055<sup>th</sup> Plenary Meeting 15/11/61; pp. 76-77).

*George Lambert, International Commission of Jurists* “Since the Member States at the Sixteenth Session were unable to reach any consensus upon the facts in dispute, the resolutions presented, or the legal merits of the competing claims, the situation clearly called for a debate upon a Resolution requesting the International Court of Justice to furnish an advisory opinion to the General Assembly upon legal questions designed to secure the Court’s opinion on the key issue of whether The Netherlands or Indonesia holds lawful sovereignty over the territory of West Papua.

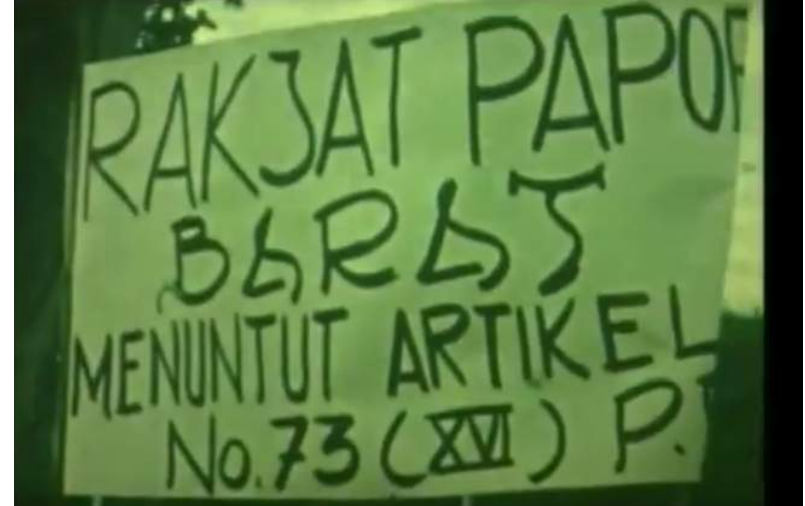
As that option was not considered it left the way open for an American diplomat, Ellsworth Bunker, appointed by Secretary-General U Thant, to enter the arena as a mediator and broker the adoption, on 15 August 1962, of an Agreement between the States party to the dispute that was in accord with the USA agenda of accommodating Indonesia” (Lambert, G 2000:5).

## West Papua as a UN Non-Self-Governing Territory (1950-1962): political developments

Manokwari hijsen van de NG vlag 1-12-1961 (Ruud Bauwens)



Ruud Bauwens 2006



**1 December 1961 Decolonisation Ceremonies in Manokwari and Hollandia** that were organised by Nieuw-Guinea RAAD. The Morning Star flag was raised alongside the Netherlands flag, the two national anthems were played, and the Papua Volunteer Korp (PVK) marched alongside the Netherlands Army. Words on the banners for the ceremony in Sorong translate as 'West Papua people demand Article 73' and 'Indonesia government rejected'.



Article VII of the 1962 New York Agreement excised the PVK's 350 officers and men from the Netherlands Armed Forces and placed them under Indonesian officers. Three years later, in 1965, the (Papuan) Cassowary Battalion routed the Indonesian Army from its barracks in the Arfak Mountains behind Manokwari.

## West Papua as a UN Non-Self-Governing Territory (1950-1962): political developments

In 1961 the Indonesian Air Force had the latest Mig-19 and Mig-21 jet fighters, Ilbushin-28 medium bombers, Tupolev-16 heavy bombers, Soviet-made Mi-6 helicopters; American Dakota C-47 transports and ten US-made C-130 Hercules.

The Navy had the latest Soviet destroyers, 12 Soviet submarines with diving equipment (plus training in Vladivostock), Italian MTBs, a Sverd-lodsk-class heavy cruiser, modern transport craft, and four West German jaguar torpedo boats.

The Army had modern East European small arms, tanks, missiles, rocket launchers, surface-to-air and surface missiles, motorised rubber boats, Russian D-1 parachutes, AK-47 assault rifles, American parachutes, AR-15 automatic rifles, as well as West German, British Irvin parachutes and Yugoslavian parachutes, Lee-Einfeld rifles, Heckler & Koch G-3 automatic rifles, Hong Kong-made camouflage suits, and Czechoslovakian jump boots.

In 1961 Major Benny Moerdani did special warfare training in the United States, and Captain Abdul Ramly did psychological operations training.

Early in 1962 there were 300 Soviet military advisers in Jakarta.

(CLM PENDERS 2002 AND KEN CONBOY 2003).

**19 December 1961** Indonesia declares use of military force to annex the Non-Self-Governing Territory, thus breaching Article 2 (4) of the UN Charter that “prohibits the threat or use of force and calls on all Members to respect the sovereignty, territorial integrity and political independence of other States”. Indonesia is at this time, with supplies from the US and especially the USSR, ‘the most powerful military power in Asia outside China’ (Penders 2002:370).

**15 January 1962** Indonesia’s weapons of invasion include three of its ten US C-130 Hercules and 4 West German jaguar torpedo boats.

*George Lambert, International Commission of Jurists* Here was a situation in which a UN member state holding sovereignty over West Papua, had committed itself upon a program designed to enable the people to prepare for and exercise their right to an act of self-determination in 1970, in full compliance with the provisions of the UN Charter and resolutions adopted under it; and a neighbouring UN member state resorting to armed force and military occupation of the territory, and on its own admission, to annex the territory.

The UN’s failure to recognize self-determination in the context of West Papua on 16 November 1961, Indonesia’s subsequent declaration of war on 19 December 1961, and invasion on 15 January 1962 resulted in the New York Agreement.

**It would be difficult to envisage an agreement more favourable to the aspirations of Indonesia to annex the territory than the New York Agreement** (George E Lambert 2000:2).



## STATEMENT BY NEW GUINEA RAAD (COUNCIL) Public meeting in Hollandia on 16 February 1962

Invited by the Netherlands Government through the State Secretary of Home Affairs on the occasion of the inaugural meeting of the Council on April 5, 1961, to inform the Government of Netherlands New Guinea of its views of the manner in which the right to self-determination of the people of this Territory could be effected, as well as of the question of the desirability of setting a date for this purpose, taking into consideration the actual consequences thereof for the economic, social and cultural building-up of the country, Considers its position with regard to the concomitant problems as follows:

### **I. The Papuan people as an ethnological unit has the right to decide its own fate in pursuance of item 2 of the decolonisation resolution 1514 (XV), which says:**

"All people have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". The fact that the western part of the island of New Guinea was brought under the central administration of the former Netherlands Indies Government can hardly be adduced in evidence that the Papuan inhabitants of the western half of the island have consequently become Indonesians.

The Netherlands has since December 27, 1949 administered Netherlands New Guinea in conformity with the provisions of the U.N. Charter. Accordingly, the annual representative reports referred to in Article 73e of the Charter have not only been submitted by the Netherlands, but have also been accepted by the United Nations on the strength of the pertinent resolution of the General Assembly Resolution 448 (V), dated December 12, 1950.

The people of West Papua have therefore a right to the continuation of their development to self-government, and the Netherlands as a member of the United Nations is bound to promote this development to the best of its ability pursuant to Article 73e of the U.N. Charter, and has a right to the support of the United Nations in fulfilling this obligation.

The Indonesian claim that the right to self-determination of the people of West Papua was brought into effect by the Proclamation of the Indonesian Republic on 17 August 1945 is rejected. The people of West Papua were not represented at the issuance of the proclamation; and the proclamation took place during the Japanese occupation of Indonesia at a time when New Guinea had already been liberated by the Allies.

It is not the real or fictitious unity of a people, but the voluntary combination of all component parts, on which a modern state should be based. And it is in this special sense that the Council wants to consider the right to self-determination of the people of West Papua. Whether or not West Papua by virtue of the right to self-determination will enter into a voluntary association of interests with another country, and if so, with what country, will have to be decided by the West Papuan people. The essential point at present is that the right to freely decide on the matter be given to this people.

**II. As set out in item 6 of the UN Decolonisation Resolution No. 1514 (XV), an insufficient economic or social development of the population should not justify the prevention of the right to self-determination from being exercised. On the other hand, there are certain minimum requirements which the development of a people must meet in order to guarantee a purposeful and justified decision. Areas not yet under control should be brought under government control as soon as possible, while**

the introduction of primary education and illiteracy eradication courses should keep pace with the opening-up process. As the progress of a country is dependent on the educational system applied, measures for the reinforcement as well as the extension of primary education, which are the necessary basis for further education and the general condition to increase the present level of development, are insisted upon with a view to accelerating the development of New Guinea.

In this connection it is also urged, in addition to the possibilities of education available to West Papuans students in the Netherlands, the Territory of Papua and New Guinea, Fiji and the other Pacific Islands, to make use of Resolution No. 1540 (XV) concerning the possibilities for study and training offered by member countries to the inhabitants of Non-self-governing territories.

The process of 'papuaisation' for which a ten year plan has been drawn up should be accelerated as much as possible and by all available means. It will be necessary to forego to some extent the current conditions of appointment consisting of a university training and many years of experience, while for a number of political appointments preference will have to be given to those who have distinguished themselves in terms of wisdom, integrity, resoluteness, and by a political backing. Decentralisation and democratisation should be developed with unflagging zeal, both for reasons of principle and in order to give as many individuals as possible some idea of the problems of government.

No self-governing territory can prosper without a sound economic basis, so much activity should generated around the national resources of the country. More than half of the budget should, in principle, be financed from national means or from unconditional financial support.

**III.** For the purpose of acquainting themselves with the methods used in the decolonisation process elsewhere and for a better understanding of and more goodwill for West Papua among other nations, a missions composed of New Guinea Council Members and prominent Papuans should without delay be sent abroad, especially to the Afro-Asian countries, including Indonesia. Missions from other countries could be invited for a better acquaintance of West Papua.

**IV.** The consideration mentioned fills such an extensive program that an estimate of time can't be given. However, the New Guinea Council believes 1970 is deadline for the realisation of the right to self-determination of the people of West Papua. The precise time and concomitant technical problems should be reviewed by the NG Council every two years.

**V. As to the administration of West Papua,** which has frequently been discussed at United Nations meetings, the Council considers its position as follows:

From an international view it would seem immaterial by whom West Papua is administered until this country can exercise its right to self-determination, as long as its people is guaranteed the right to make a free decision. **Yet there are objections to certain forms of administration:**

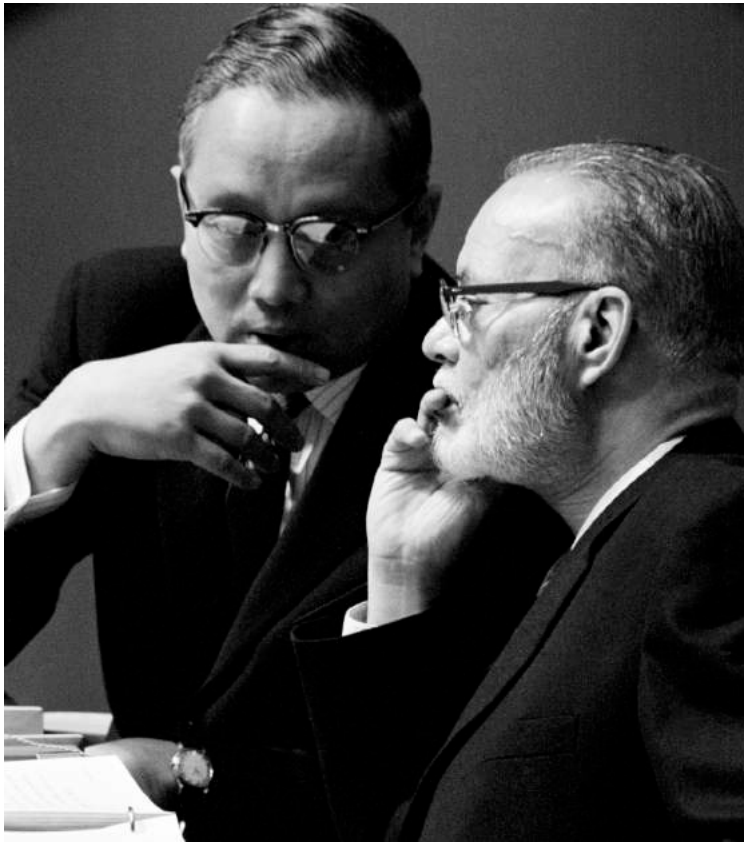
a. **Administration by Indonesia is rejected,** because Indonesia is the claiming party and is therefore not neutral, and consequently will not enable the Papuan people to exercise their right to self-determination in freedom.

b. In practice, any administration that is different to the current government will inevitably slow down the present rate of development.

c. The desire for international acknowledgement of the right to self-determination may result in a certain form of internationalisation, but in view of the drawback in (b) preference is for a Netherlands administration rather than another Power or direct by the United Nations.

d. The Council considers it of utmost importance, as expressed in its motion of 22 January 1962, that the United Nations send a commission to West Papua as soon as possible so that it may learn direct of the views and wishes of the Papuan people.

(sgd.) J.H.F. Sollewijn Gelpke, Chairman; W. Trouw, LL.M., Clerk of the Council



UN Sec-General U Thant and President of the General Assembly Muhammad Khan (UN photo).

UN caption: 21 Sept 1962, General Assembly authorizes UN to carry out tasks set forth in the Agreement on West New Guinea (West Irian).

## WEST PAPUA AND THE UNITED NATIONS

### Indonesia and Netherlands Agreement (New York Treaty)

#### 15 August 1962—20 November 1969

*The Kennedy administration believed that gifting the Non-Self-Governing Territory of West New Guinea to Indonesia would create out of '700,000 cannibals living in the Stone age' a pillar on which the 'socio-economic health' (freedom from communism) of the Pacific depended. The President's gift didn't diminish Indonesian communism, but it did reduce a functioning self-determination unit to a colony of an Asian republic that was in political chaos, on the brink of economic collapse, and wasn't afraid of violating its legal obligations. Now many UN member-states believe their organisation needs to recompense its failure to uphold self-determination in the context of a Non-Self-Governing Territory whose Administering Power was in full compliance with the international rules-based order. And that Indonesia must relinquish the 459,412 kms<sup>2</sup> of richly resourced Melanesian land it was able to acquire because of that failure.*

**17 January 1962** After the UN failed to recognise self-determination in the context of West New Guinea on 27 November 1961, Acting Sec-General U Thant invited the Netherlands and Indonesia to negotiate directly. However, the dialogue stalled when Indonesia insisted, as it always had, that negotiation had to be based on a precondition that West New Guinea will pass to Indonesian control (John Saltford, 2003: xviii, 12).

**11 March 1962** The Kennedy administration instructed U Thant to appoint American diplomat Ellsworth Bunker to mediate talks between the Indonesians and the Dutch. Talks begin on 20 March 1962. The next day, 21 March, 151 Irianese and Indonesian Police secretly trained by US Army Special Forces on Okinawa (with US AR-15 automatic rifles) land in the Raja Ampat islands off the west coast of West Papua.

**24 March 1962** Indonesia withdraws from negotiations.

**26 April 1962** Forty Indonesian commandos parachute into Fakfak and 32 into Kaimana. "U Thant declines Dutch request for UN observers noting that such action could only be considered if both governments made the request" (<https://peacekeeping.un.org/en/mission/past/unsfbackgr.html>).

"I cry because the Papuans do not support us ... they do not give us food .. we must look for our own or barter with our valuable equipment ... and they report on our movements to the Dutch" (Lt Heru parachuted into Kaimana on 26 April 1962).



**15 AUGUST 1962, Signing, New York Agreement, UN Headquarters.** Acting Secretary-General U Thant personally appointed Brigadier General Indar Jit Rikhye from India (seated behind Ellsworth Bunker) to lead the UN Military Observer 'cease fire' in West Papua.

**20 AUGUST 1962, Airport in West Papua.** West Papuans 'greet' Brigadier General Rikhye and the 21-member advance team of UN Military Observers under Swedish Naval Commander OW Melin.



**29 June 1962** UN legal counsel Constantin Stavropoulos advises U Thant of “a strong presumption in favour of self-determination in situations such as that of West New Guinea ... irrespective of legal stands or interests of other parties”

**12 July 1962** Talks resume, but Indonesian battalions proceed to Sulawesi, Kei and Seram to prepare for invasion of Biak Island. Incursions continue until the UN-aided peace treaty between the Netherlands and Indonesia is signed on 15 August 1962.

**31 July 1961** 89 guerilla-fighters into Sorong.

**7 August 1962** Commandos infiltrate Fakfak and Misool.

**14 August 1962** Parachute drops on Sorong, Merauke, and Kaimana.

**15 August 1962** 12 whiskey-class submarines invade Hollandia.

**15 August 1962, Signing of Indonesia and Netherlands Agreement** The ‘New York Agreement’ was a US-driven UN-aided peace treaty between the Dutch and Indonesians that over-rode West Papua’s self-determination. It transferred the administration of the Non-Self-Governing Territory from the Netherlands to the United Nations which then passed it to Indonesia.

*Annette Culley (2016:65)* “The New York Agreement contained no clause concerning the obligation under Article 73e of the Charter that requires the Administering Authority to transmit regular reports to the Secretary-General relating to economic, social, and educational conditions in the territory for which it is responsible”

*George Lambert 2001, ICJ* “The General Assembly must be held responsible to a significant extent for brokering the Treaty in terms which clearly reflected the proposition that the merits in the dispute were entirely in favour of Indonesia.”

During the signing of the Agreement, the Indonesian and Dutch representatives pass a MOU to Sec-General U Thant asking him to immediately implement ceasefire functions as an “extraordinary measure”.

*UN Report* “Although there was no explicit reference to military observers in the memorandum, the Secretary-General selected them to perform these tasks and agreed to dispatch them without the prior authorization of the General Assembly or the Security Council, a step never before taken by a Secretary-General” (<https://peacekeeping.un.org/en/mission/past/unsfbackgr.html>).





**Airport in West Papua, 20 August 1962.** West Papuans protest against the New York Agreement and an Indian, Brig-General IJ Rikhye as head of the UN Military Observer Force (India led Indonesia's argument in the UNGA in November 1961).



**Photo and caption from UN Archives 18 Sept 1962, Karachi, Pakistan.** "Pakistan Troops Leave for Service as UN Security Force in West New Guinea (West Irian). Some 1,100 men of the Pakistan Navy and Army left here today aboard the SS Safina-E-Hujjaj for west New Guinea (West Irian) to serve as Security Force of the United Nations Temporary Executive Authority. Vice-Admiral A.R. Khan (left), Commander-in-Chief of the Pakistan Navy, at the pier during a ceremonial farewell for the troops".

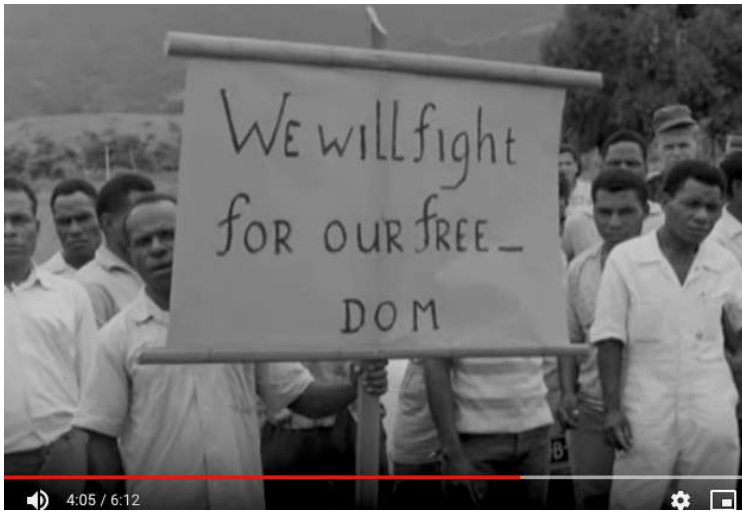
The Sec-General appointed Brigadier General IJ Rikhye to head the military observer team supervising the ceasefire. Six Member States (Brazil, Ceylon, India, Ireland, Nigeria, Sweden) provided 21 observers. Aerial support, also requested by U Thant, was given by the 13<sup>th</sup> US Task Force for the Far East and the Royal Canadian Air Force ...

... The UN Military Observer Force (UNMO) landed in West Irian on 20 August 1962 (5 days after the New York Agreement and 2 days after The Netherlands military command announced its ceasefire). The UNMO helped supply the Indonesian troops with food and medicines although most of the emergency supplies were provided by the Netherlands military command, which also treated any Indonesian troops who were seriously ill. On 21 September 1962, Rikhye reported all ceasefire actions had been completed without incident and he was arranging the landing of the UN Security Force (<https://peacekeeping.un.org/en/mission/past/unsfbackgr.html>).

**18 September 1962** Eleven-hundred (ultimately 1500) troops leave Pakistan to serve as the UN Security Force. The consent of the UN Security Council was not sought for this deployment (Culley, A 2016:94) and the troops boarded the ship three days before UN General Assembly members had been given the New York Agreement to read, let alone vote on it.

**21 September 1962** UN General Assembly votes (89-0, 14) to authorize the Secretary-General to carry out tasks entrusted to him in the New York Agreement (UNGA Res. 1752 (XVII)).

*Annette Culley* "Members were given no time to study the resolution, or agreement, or to seek legal advice before voting ... After the vote Australia's representative, Garfield Barwick, stated the dispute should have been taken to the International Court of Justice as it involved a juridical question (par. 213). He spoke of the Papuans right of self-determination ... [that] Indonesians had previously stated that their claim to West New Guinea was based on political considerations of historical or consensual origins ... [that] Australia would not regard a forceful solution as binding (par. 216) ... and deplored both the use of force and the threat of it during the period between the 16th Session and the conclusion of this Agreement" (par. 19). (Culley, A 2016:pp64, 141, citing UN Records, 1127<sup>th</sup> Plenary Meeting, 21 Sept 1962).



**Airport, West Papua, 20 August 1962.** West Papuans protest New York Agreement as the UN Military Observers arrive.

### THE ROME AGREEMENT, 30 September 1962

- i) Relieved Indonesia's fear of losing West Papua in 1969;
- ii) Gifted the US and Indonesia economic and political hegemony until 1985 including security of US investment in the Freeport mine;
- iii) Guaranteed that Indonesians would eventually outnumber indigenous Melanesians (through World Bank funds for transmigration);
- iv) Diluted the influence of previous 'Dutch' development with an Asian Development Bank grant that matched Holland's \$US30 million to the UN Fund for Development of West Irian/FUNDWI. (Culley, Annette, 2016:p91)

*Herman Wajoy, a graduate of the civil service school set up by Jan van Eeoud in 1946, risked his life pillaging the Rome Agreement files from the Foreign Ministry archives in Jakarta. He instructed Herman Wainggai to publish them after he died (Jacob Rumbiak).*

*Thomas Frank, 1985* "With the commission of the New York Agreement the world conceived and delivered an international nation. That is, Nederlands Nieuw-Guinea after 21 September 1962 was a UN territory, administered by the Indonesian Republic after 1 May 1963, until West Papuans freely determined, through a referendum, whether they wanted independence or integration".

**30 September 1962** Rome Agreement—signed by Indonesia, the US, and the Netherlands subsequent to the UN General Assembly ratifying the New York Agreement—affirmed quid pro quo understandings between the Indonesian Republic and the United States of America, whereby:

1. The Act of Free Choice to be delayed or cancelled;
2. The *Musyawarah* system be used rather than one-person-one-vote;
3. The UN report to the UNGA in 1969 be accepted without debate;
4. Indonesia rules West Papua for twenty-five years after 1963;
5. US to exploit natural resources in partnership with Indonesian companies;
6. US to underwrite Asian Development Bank grant for \$US30,000,000 and guarantee World Bank funds for transmigration program starting in 1977.

**1 October 1962** The administration of the Non-Self-Governing Territory is transferred from the Netherlands to a UN Temporary Executive Authority (UNTEA) and Security Force (UNSF) for seven months.

**1 May 1963** The UN transfers its administration of the Non-Self-Governing Territory to Indonesia. Indonesia immediately issues a presidential decree that closes West Papua and renders it an Operational Military Zone (DOM), and establishes Anti-Subversion regulations (Jacob Rumbiak 2001). Flying the Morning Star flag or singing Hau Tanakhu Papua are outlawed, and there are massive book-burning events. All the district councils are abolished and the New Guinea RAAD is paralysed by the arrest and torture of its members.

**November 1963** Indonesian Army forces 11 Papuan leaders to sign a document relinquishing the right to self-determination. In December Papuans are arrested who'd rallied for the act of free choice to be held during the UN administration ... some are never seen again, including members of the Nieuw-Guinea RAAD like Nicolaas Tanggahma, and Penehas Torey who had attended the South Pacific Conference (Luther Saroy, 2012:pp181-202).

## 26





UN Photo, 31 December 1962. Ceremony at residence of UNTEA Administrator Dr. Djalal Abdoh. The Indonesian flag was raised alongside the United Nations flag, and an Indonesian detachment and Pakistani contingent of the UN Security Force presented arms. This flag-raising took place four months before UNTEA passed the administration to Indonesia on 1 May 1963.

UN Sec-General U Thant (1961-71) with Netherlands Foreign Affairs Minister Joseph Luns (1952-71) at a press conference on 7 April 1968. Luns was widely ridiculed for championing the West Papuans right to self-determination.



**7 January 1965** Indonesia resigns from United Nations, and in October exacts 'one of the worst mass murders of the 20<sup>th</sup> century alongside the Soviet purges of the 1930s, Nazi Holocaust during WWII and the Maoist bloodbath of the 1950s' (Helen Hunter, CIA Report 1968).

**July 1966** New regulations enable the government to set up *Dewan Musyawarah Pemilihan* (Election Consultative Council) which means Indonesia can run the Act of free choice in 1969 based not on one-man one-vote but on *musyawarah* consensus (Jacob Rumbiak, 2001).

*George Lambert 2001, ICJ* "Indonesia's obligations under the terms of the Treaty were to apply Indonesian law only to the extent to which they were consistent with the spirit of the treaty. These regulations were diabolically opposed to the spirit of the treaty."

**28 September 1966** Indonesia rejoins the United Nations.

**July 1968—August 1969** Indonesian government selects 1,026 Papuans to 'vote' in the Act of Free Choice and isolates them. Over a nineteen-day period in July-August 1969 they are distributed into eight assemblies for *musyawarah* ('reach consensus') over whether to 'remain with, or sever ties with Indonesia'.

*Article XVIII of the New York Agreement:* 'all adults, male and females, not foreign nationals, to participate in the act of self-determination, to be carried out in accordance with international practice'.

**20 November 1969** UN member-states voted (84-0, 14) to 'take note of the Secretary-General's Report and acknowledge that he and his representatives fulfilled the tasks entrusted to them under the Agreement of 15 August 1962' (UNGA Resolution 2504 (XXIV)).

*George Lambert 2001, ICJ* "The Act of Free Choice was stage-managed and shrouded in a web of intrigue, bribery, duress by threat, coercion by propaganda and fraudulent promises such that 1025 carefully selected, indoctrinated and controlled members of the indigenous population of almost 800,000 under the close scrutiny of armed Indonesian security personnel, agreed unanimously to commit their peoples to the integration of their homeland with the State of Indonesia. The 1025 stood up to indicate the desire of the Indonesian administration that they choose to integrate with Indonesia. The bold course taken by 851 of them, in refusing when called upon, to sign an integration statement, verified by an official Indonesian document, testifies to their real choice".

## LEGAL COMMENTARY ON THE ACT OF FREE CHOICE

**James Crawford** *The creation of states in international law*

"The clear distinction between the right of a dependent people to choose its own political future and the contingent interest of a neighbouring State in the exercise of that right has been confused or conflated. In particular the General Assembly has treated certain territories not as self-determination unit but as enclaves of a claimant State, with the result that in the latter case [enclave], the only acceptable future status has been the surrender of the territory to the claimant State. In spite of these unfortunate events the International Court's conclusion as to the right of colonial self-determination and the special status of a non-self-governing or trust territory remains firm" (in Annette Culley 2016:p108).

**Pieter Drooglever's** *Een Daad van Vrije Keuze* (An Act of Free Choice) leaves little doubt that the vote was, as the 1969 UN Under-Secretary General Chakravarthy Narasimhan said in a 2001 interview "a whitewash ... The mood at the UN was to get rid of this problem as quickly as possible" (Bibliography for link to online English summary).

**Andrew Johnson's** comprehensive legal argument that West Papua was (and still is) a UN Trust Territory (see Annette Culley 2016, (Chapter 11 *West Papua and the United Nations Trusteeship System*)).

**Mishla Pomerance** (*Self-determination in law and practice: the new doctrine in the United Nations*, 1982:33). When the conclusion of the 1962 Agreement ('act of free choice') came to the vote before the General Assembly in 1969 many African and Central American States were profoundly distressed by the spurious, non-democratic methods used to ascertain the wishes of the Papuan population and strove, in vain, to secure for that population a future right of final and genuine self-determination ..... In fact some General Assembly members declared 'the issue before the Assembly was not one of self-determination, but of the affirmation of the national unity and territorial integrity of the Republic of Indonesia' (UN Yearbook 1969:pp175-179).

Indonesia did not organise an act of self-determination, and the UN has outstanding legal and moral obligations under the Agreement approved in UNGA Res. 1752 (XVII) and Chapters 12 and 13 of the UN Charter (Andrew Johnson, in Annette Culley 2016: Chapter 11).

Resolution 2504 (XXIV) doesn't call on Indonesia to allow the act of self-determination agreed to in the New York Agreement. Nor does it document any change in the territorial status of West Papua. **Nor did it revoke the UN Trust status of the territory which was and still is administered by Indonesia pending an act of self-determination** (Andrew Johnson, in Culley, A 2016:p102).

### Two West Papua eye-witness accounts of the act-of-free-choice (that West Papuans call 'act of no choice')

1. On the eve of the Act of Free Choice in 1969, two West Papuans, Clemens Runawery and Willem Zonggonau (a member of the New Guinea RAAD) sought refuge over the border in the Australian-administered side of New Guinea in order to fly to New York to present the Papuan case to the UN General Assembly. At the request of then Indonesian Foreign Minister Adam Malik, who feared the Papuans would be credible spokesmen, the Australian administration in Papua New Guinea ensured the two students did not make it to New York. "Wim and I were forced off the plane by Australian government officials". They were detained on **Manus Island** where the government had built houses to isolate politically active refugees from West Papua, but were not processed as 'refugees'.

2. During the Act of Free Choice I was a civil servant, working for the *bupati* in Biak ... Soedjarwo Tjondronegro, who worked at the Indonesian Embassy in the Netherlands, was an organiser. When he came I met him in Biak. He asked 'In your opinion what method shall we use for the election?' I said 'Oh just use the district system, that is, an election by district, so it is fair and honest.' But all the regions used the *musyawarah* system. We protested, and we were arrested on 8 October 1968. Three soldiers came to our house and took us away. We were locked up and beaten until we bled, because we had protested (Joel Boray 2012:p161-81).

## OPINIONS OF EMINENT JURISTS (in Culley, A 2016:67-69)

**Antonio Cassese** *A Self-determination of peoples—a legal reappraisal* 1995:86).

The integration of West Irian into Indonesia in 1962 demonstrated 'a gross disregard for' and 'substantial denial of' the principal of self-determination ... with the main irregularities being:

The choice for the people provided for in the bilateral agreement of 1962 was limited to whether they 'wished to remain with Indonesia' or 'wished to sever their ties with Indonesia', with no reference to possible alternatives if the vote was in favour of leaving Indonesia;

2. The criteria for establishing if a territory is no longer a Non-Self-Governing Territory, as listed in General Assembly Resolutions 742 (VIII) and 1541 (XV), was not met in the 1962 agreement between Indonesia and The Netherlands.

3. The method used for voting in the 'act of free choice' did not meet the international standards of one-person-one-vote stipulated in the 1962 Indonesia and Netherlands Agreement or UNGA Res. 1752 (XVII).

4. There was 'no real and direct consultation of the population'. The 'consultation' was indirect, in that Regional Councils (enlarged by three classes of representatives: regional, organizational, tribal) were called upon to decide which option to accept.

5. By reason of insufficient United Nations personnel ... there was insufficient supervision of the elections for the consultative assemblies.

6. The Indonesian authorities put strong pressure on the people of West Irian to support integration with Indonesia.

The critical comments that have been made concerning this pseudo-choice—which actually proved to be a charade and a substantive betrayal of the principle of self-determination—by such authors as **Pomerance** and **Franck** are fully justified, as are the views put forward by the Dutch delegate to the 1962 General Assembly, which were rightly referred to by Franck as 'an eloquent epitaph to self-determination'.

**Andrés Rigo Sureda** *The evolution of the right of self-determination: a study of United Nations practice*, 1973:p151).

After the Agreement of 1962 was concluded the General Assembly approved it without any reference to the fact that West Irian was a Non-Self-Governing Territory ... before the signature of the agreement the General Assembly may have been reluctant to take any action because of doubts about its competence [but] the failure of the General Assembly to determine whether West Irian was a Non-Self-Governing Territory or not after the settlement of the territorial claim can be interpreted as an implicit acceptance of the Indonesian view that the territory was part of Indonesia.

Indeed, since the Agreement between Indonesia and the Netherlands was not in accord with the factors listed by the General Assembly in Resolutions 742 (VIII) and 1541 (XV) as indicative of a territory ceasing to be Non-Self-Governing, the attitude taken by the General Assembly can be taken to mean that West Irian was regarded already as 'an integral' part of Indonesia and therefore there was no need for it to go through the process indicated by the General Assembly to achieve self-determination.

**Thomas Musgrave** *An analysis of the 1969 Act of Free Choice in West Papua* (In ChinkinC, Bactens F 'Sovereignty, Statehood and State responsibility: essays in honour of James Crawford', Cambridge University Press, 2015, Chapter 12).

There were other irregularities in the 1962 Agreement between Indonesia and The Netherlands. West Papua was a Non-Self-Governing Territory and its inhabitants were classified as 'a people', therefore self-determination applied to them separately from the remainder of the Netherlands East Indies. Indonesia, however, citing Principle 6 of General Assembly Res. 1514 (XV) claimed that it was 'reintegrating' West New Guinea.

Principle 6 states that '[a]ny attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the purposes and principles of the United Nations.' The purpose of the principles is to protect a country's national unity and territorial integrity. But in this case to which State or territory was the protection owed?

Since West New Guinea was a Non-Self-Governing Territory, the principle applied to West Papua's national unity and territorial integrity, not Indonesia's. This being so, the question then for West Papuans in Article XVIII (c) of the Agreement should not have been did they wish to *remain* with Indonesia or *sever* their ties with Indonesia, but whether they wanted to integrate with Indonesia.



## ABSTRACT 'WEST PAPUA : REAL-POLITIK V INTERNATIONAL' GEORGE LAMBERT 2001.

The General Assembly never approved, or adopted, or validated in its resolutions, the outcome of the treaty [New York Agreement]. It didn't have to do that. It was not its responsibility. However the General Assembly must be held responsible to a significant extent for the outcome:

1. Its failure to accept and commit to date upon Res. 1055 of 16 November 1961, convened on a reference from the Netherlands, which called for the parties to continue negotiations for a settlement of their dispute; and if such negotiations proved unavailing, to appoint a commission to study and report on the political, social and economic conditions in West Papua.
2. In brokering the Treaty in terms which clearly reflected the proposition that the merits in the dispute were entirely in favour of Indonesia.
3. In appointing Ortiz Sanz as the Secretary-General's representative for the United Nation's facilitative role specified in the terms of the Agreement. Sanz revealed to Hugh Lunn, who covered the Act of Free Choice for Reuters, that he would like to see a US base at Manokwari. He, like the Americans, feared a communist take-over. He knew, as did the United Nations, that Indonesia, with substantial armaments provided by the Soviet Union, had, prior to the execution of the treaty, perpetrated an armed invasion of the territory and military occupation of it.
4. In its failure in those circumstances to refer that crime against the peace that is referred to in the charter, its effect on the peoples of West Papua, and the consequences of such conduct set out in General Assembly Resolution 1541 (15) which are dire.

Here was a situation in which a UN member state holding sovereignty over West Papua, had committed itself to a program designed for the West Papuan people to prepare for and exercise their right to an act of self-determination in 1970, in full compliance with the provisions of the UN Charter and resolutions adopted under it; and a neighbouring UN member state resorting to armed force and military occupation of the territory, and on its own admission, to annex the territory.

The treaty was tainted by the Indonesian threat and use of armed force, and its military occupation of the territory prior to its adoption by the parties to it; and the illegality, and unconscionable conduct, and breaches of the fundamental terms by Indonesia over its course. I set out some examples:

1. Indonesia's failure to accept participation and assistance by the United Nations Secretary-General representative, an obligation under the terms of Article 13 of the Treaty, and particularly with respect to appropriate methods to be followed for ascertaining the freely expressed wishes of the population of West Papua.
2. Indonesia's conduct in issuing regulations in 1966 to be applied to the territory of West Papua. Indonesia's obligations under the treaty were to apply Indonesian law only to the extent to which they were consistent with the spirit of the treaty. These were diabolically opposed to the spirits of the treaty.
3. Indonesia's failure, contrary to the proviso of Article 18 of the treaty, to give to the people of the territory the opportunity to exercise freedom of choice, and appropriate methods to be followed for ascertaining the freely expressed will of the population, and providing eligibility for all adults, male and female, to participate in the act of self-determination in accordance with international practice.

Article 103 of the United Nations Charter stipulates that in the event of a conflict between the obligations of the members of the United Nations under the present charter, and their obligations under any other international agreements, the obligations under the present charter shall prevail. That provision applies to a conflict between the provisions of Article 18(c) of the treaty and the obligation imposed upon the parties to the treaty by the General Assembly's declaratory Resolution 1541 (15) of 1960, which includes the option of 'free association with an independent state' an option not included in Article 18(c) of the treaty. **That circumstance alone casts gravest doubt upon the validity of the Act of Free Choice in West Papua.**

There are a whole range of other factors outlined in the major paper which led me to the conviction that Indonesia did not acquire lawful sovereignty over West Papua through the processes involved, and the ultimate outcome of, the 1969 Act of FreeChoice. I mention one briefly.

Ortiz Sanz, in his report to the Secretary-General, lists senior Indonesian military, administrators, and security in attendance at all the sessions of the consultation assemblies between 13 July and 2 August 1969. It includes Ali Murtopo, the head of OPSUS, masquerading as 'group chairman of logistics, social and political affairs'; and Brigadier-General Sarwo Edie under the pretentious title of 'regional leadership, consultative body'. It would be a bold West Papuan to have not stood up and say what he was invited to say, given the reputations of Murtopo and Edie. All 1026 of them stood up to indicate the desire of the Indonesian administration that they choose to integrate with Indonesia. The bold course taken by 851 of

them, in refusing when called upon, to sign an integration statement, verified by an official Indonesian document, testifies to their real choice. That they would voluntarily choose integration defies reason.

Whether a UN state, that is the Netherlands—bound by the sacred trust imposed upon it by Chapter 11 of the UN Charter, resolutions adopted under its provision, the customary rules relating to treaties, and the terms of the Vienna Convention on treaties—can lawfully enter into and implement a bilateral treaty with Indonesia, the terms of which required the Netherlands to repudiate its obligations under the sacred trust, and transfer its administration to Indonesia, and its obligations under the trust to Indonesia, particularly without consulting the beneficiaries of that trust, and having regard to Indonesia's armed invasion and occupation of a non-self-governing territory.

In 1962 and 1966, the international court was recognising that there were customary law rules, relating to treaties prior to the adoption of the Vienna convention, which had to be complied with.

The law of treaties arose out of international *jus cogens* (that is, rights). The manifest purpose of *jus cogens* is to protect the over-riding interest and values of the international community. This purpose can be realised only if peremptory norms - that is, customs of customary law - are universally obligatory. The principal source of peremptory norms are conventions and international customs, often together.

According to the two Vienna conventions, treaties conflicting with peremptory norms are void. The invalidity is extended to bilateral treaties, and to parties, which do not as such infringe the rights or direct legal interests of any third state. Since the states, and the parties, are prohibited in the treaty to agree to something derivating from the peremptory obligations, logically, no state can validly give its consent to any violation of peremptory norms. The following three groups of peremptory norms are of interest.

1. Prohibition of the use of aggressive force by states in the international sphere. That is covered in the Charter.
2. Obligation not to obstruct the rights of peoples to self-determination. That is also covered in the Charter.
3. Prohibition of the gravest violation of human rights. Covered in Charter.

Article 4 of the Charter ends by saying 'the Convention applies only to treaties which are concluded by states after the entry and before the present Convention'. This treaty was entered into shortly before the Convention. It precedes that by saying 'without prejudice in the application of any rules set forth in the present convention, to which treaties would be subject under international law independently of the convention, the convention applies only to treaties concluded after the entry and before the present Convention'. But that doesn't apply to this one. It had operation in effect at the time the treaty was entered into.

Article 49 states that 'if a state has been induced to conclude a treaty by the fraudulent conduct of a negotiating state, the state may invoke fraud as invalidating its consent to be bound by the treaty'.

Article 52, much wider than Article 49, states 'the treaty is void if its inclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations'. There can be no doubt that happened. In the Fisheries jurisdiction case in 1973, the court stated 'there can be little doubt that consent obtained contrary to Article 52 is of no legal event'.

While the conclusion of the New York Treaty preceded the adoption of the 1969 Vienna Convention on treaties, the convention was adopted prior to the implementation of the so-called Act of Free Choice in West Papua. And although the convention did not enter into force until 1980, member states were aware of its terms prior to the noting of that Act, and so was the General Assembly in November 1969. They were also aware of the threat by Indonesia to use armed force to procure West Papua which tainted the New York Agreement prior to the debate of the General Assembly in 1962 which led to the adoption of the resolution which noted the Agreement and recognised the report of the Secretary-General.

*George Lambert presented this abstract from 'West Papua : Real-Politik v International Law' at Yumi Wantaim Seminar for West Papua in Melbourne on 15-16 September 2001. Full paper at <https://dfait.federalrepublicofwestpapua.org/document/west-papua-real-politik-v-international-law-by-george-lambert-icj-2000/>*



9 September 2019: Delivering the Federal Republic of West Papua's petition to the Australian Government (to vote *for* Vanuatu's motion in the UN) for a Media Conference. Australian Greens Leader Richard di Natale tabled the petition in the Senate later in the day.

The procession to Parliament House from the Netherlands Australian War Memorial was led by Jacob Rumbiak (ULMWP Spokesperson) and Len Cooper (Communication Workers Union, and Chairman of the International League of Peoples Struggle).

Photo—Tommy Latupeirissa RMS.

## HELPING WEST PAPUA RETURN TO THE UN

*Between 1962 and 1969 the United Nations—as well as Indonesia—did not uphold their sacred obligation to protect and implement the West Papuans right to self-determination, and there has never been an act of self-determination in West Papua. The Netherlands—as Administering Power of the Non-Self-Governing Territory from 1950 to 1962—fought doggedly for the inclusion of that right in the UN-aided New York Agreement. As the Netherlands UN Representative said on 15 November 1961 (after the General Assembly failed to recognise self-determination in the context of West Papua) “the ‘free choice’ granted to the population of the territory was no longer exclusively its own concern, not was it any more a question of Netherlands or Indonesian policy; it was a question of world concern for which each Member of the United Nations carried a responsibility of the same order as that of the parties themselves.”*

*Now the Vanuatu Republic is sponsoring a motion to register West Papua on the UN Decolonisation List, and is confident its motion will succeed because ‘the people of the world’ who voted, through their UN representatives on 21 September 1962, to share responsibility with Indonesia for the administration of the Territory, now recognise their mistake.*

In 2014, during a Reconciliation Summit for West Papuan leaders in Vanuatu, the United Liberation Movement for West Papua (ULMWP) was set up as an ‘inclusive, representative united body’ to carry the peoples’ independence program. The Summit was a regional initiative generated by Melanesian church and women’s organizations and the 2013 World Council of Churches Assembly in South Korea; supported by the Protestant church in West Papua; sponsored by the Pacific Conference of Churches and Vanuatu Government; and mediated by the Vanuatu Christian Council and the Malvatumauri National Council of Chiefs.

The ULMWP’s five-person executive was elected from and is tightly accountable to a pillar of **Political Power** of the nation’s three key political identities: the West Papua National Parliament (KNPB), West Papua National Coalition for Liberation, and the Federal Republic of West Papua (FRWP). Each of these political identities is accountable to a pillar of **Civilian Power** that includes the churches; the ADAT (tribal) structures; youth, student, workers, womens’ groups, and NGOs.





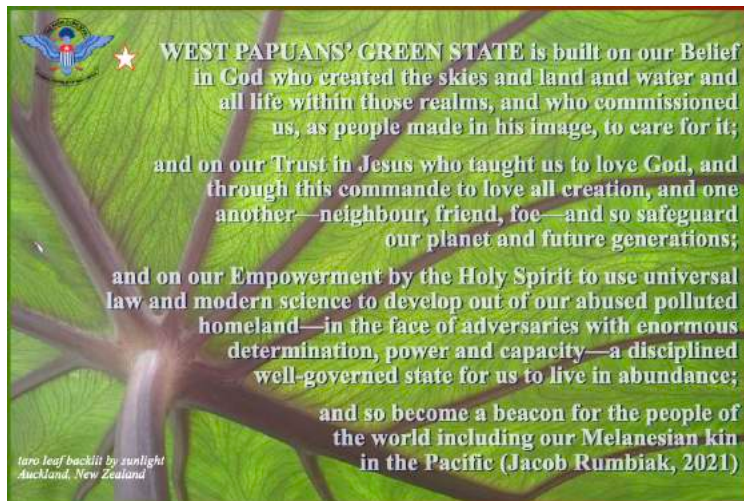
## West Papua Provisional Government

On 1 December 2020, after a petition for independence hand-signed by 1.8 million West Papuans was presented to the United Nations in 2017 and 2019, the United Liberation Movement for West Papua (ULMWP) announced the formation of a West Papua Provisional Government to govern the people of a richly endowed sovereign state (that has a defined territory, a permanent population, and capacity to enter into relations with other states).

The West Papua Provisional Government, like the ULMWP, is accountable to the people's key political organisations—the Federal Republic of West Papua, Coalition for the Liberation of West Papua and West Papua National Parliament—and to their Tribal Councils and the WP Council of Churches. The parliamentary system has a President and Prime Minister, 12 Cabinet Ministers of working bureaucracies, as well as Governors of the territory's seven states.

On 1 December 2021, during the 2021 UN Climate Summit in Glasgow, the West Papua Provisional Government launched its 'Green State' initiative, President Benny Wenda telling the assembled media, politicians, and NGOs "We have a constitution, government, cabinet, and a Green State policy framework to restore balance between the human and non-humans in our homeland".

West Papua now has the support of the Pacific Islands Forum (18 UN member-states, including Australia and New Zealand); the African Caribbean Pacific Group (79 UN member-states); the European Union, and the Parliaments of the UK, Poland, the Netherlands and Spain. Vanuatu is the state's legal sponsor to the United Nations. All of this support may mean that Indonesia has squandered its opportunities to negotiate directly with the Papuans and will now have to suffer exposure of its brutal occupation during **international mediation** of the long-standing conflict.





In 2015, ULMWP lobbying effected an historic shift for West Papuans from ‘the darkness to light’ (the popular description of the Melanesian Spearhead Group’s courageous recognition of the independence movement). Such naming of this hard-fought deliverance, from a closed militarised colony to an international platform where Papuan cries and arguments can be adjudicated in terms of international law, embodies the particular spirituality of the West Papuan independence movement.

The root cause of the problem is Indonesia’s colonisation of the West Papuan homeland, and it is within the UN—or its principal judicial organ the International Court of Justice—that there are mechanisms to adjudicate the facts and develop a solution in the form of recognition or referendum (as in the recent cases of Bougainville and New Caledonia).

For West Papua to be registered on the UN Decolonisation requires 127 of the 193 UN member-states to vote for a motion raised by the Republic of Vanuatu (West Papua’s sponsor). The Pacific Islands Forum (an 18-member intergovernmental forum that includes Australia and New Zealand) and the African Caribbean Pacific Group (79 member-states) both passed motions in 2019 that **call on all parties to address the ‘root cause’ of the conflict** and on Indonesia to allow the UN Human Rights Commission’s fact-finding mission to West Papua early in 2020.

As signatories to the Pacific Island Forum motion, Indonesia’s allies like Australia and New Zealand will have to review their support of Indonesia’s special autonomy regime in West Papua. In 2010, Special Autonomy 2001 was formally rejected by all major West Papuan institutions, as much for encouraging an exponential growth of military infrastructure and personnel as for failing to achieve its development ambition. Australia and New Zealand in ‘addressing the root cause of the conflict’ will inevitably land on West Papua’s ‘right to self-determination’ and realise the problem is an international legal issue that requires UN General Assembly direction and International Court of Justice adjudication.

Some well placed Indonesians have dared to ponder, in public, what a break with West Papua might mean for the unitary republic. The celebrated political scientist Soedjati Djiwandono, founder of the nation’s Centre for Strategic and International Studies, and described after his death in 2013 as ‘a beacon of light on dark truths’, asked Indonesian citizens in 1999:

“Would we prefer to have a single nation-state out of this huge but almost unmanageable archipelago ... marked by abject poverty among the majority of people, by continued injustice, continuous tension and conflicts because of seemingly irreconcilable differences in ethnic, religious and cultural terms? Or at the risk of being dubbed “blasphemous”, to split peacefully into two, three, four or even five smaller nation-states with a greater chance and hope for peace, greater prosperity, equality and justice for all?” (The Jakarta Post, 9 November 1999, in John Saltford 2003:p4).



Russia's 'Pussy Riot' campaigning with the iconic Australian Aboriginal band Yothu Yindi at the 2019 Adelaide Fringe Festival for West Papua to be registered on the UN Decolonisation List.

West Papuans in 2020 are asking for help from the UN member-states that in 1962 betrayed the organisation's foundational principle of self-determination and forced an indigenous Melanesian people to become an Indonesian colony. The results of the betrayal have been disastrous: in 1962 West Papuans constituted 99% of the population; in 2010 they were 30%, with a growth rate of 1.6% (distinct from the non-Papuan rate of 10.5%); in 2030 they are calculated to be 'a dwindling minority' of 15%.

'Slow motion genocide' is blamed for up to a million missing Papuans—poisoned, assassinated, exiled, born dead or not at all. Their land, their source of spirituality and sustainability, is ravaged by miners and loggers. Their waters, pristine in 1962, are polluted. Their unique flora and fauna is flogged in black markets across Java and Sulawesi.

West Papuans are asking UN member-states to support a motion being raised by Vanuatu to register them on the UN Decolonisation List. The 18-member Pacific Island Forum (that includes Australia and New Zealand) and the 79-member African Caribbean Pacific Group took up the challenge in 2019 and passed preparatory motions.





United Liberation Movement for West Papua (ULMWP)  
211/838 Collins St, Docklands 3008, VICTORIA

Jacob Rumbiak, ULMWP Spokesperson  
spokesperson@ulmwp.org; +61 [0] 497 867 070

16 October 2019

Senator Payne  
Minister for Foreign Affairs  
Parliament of Australia  
Canberra

Dear Minister

I am writing to request a more engaged response from Australia to the Indonesian Parliament's recent passage of legislation that formally integrated a religious militia within the Indonesian Defence Force.

*Paguyuban Nusantara*, led by criminal-returnees from the caliphate wars in the Middle East, has declared its intention to wage holy jihad in West Papua (SBS TVNews <https://www.youtube.com/watch?v=h1HYaiRtkQ>). Meantime the government claims *Paguyuban Nusantara* is a 'non-violent response by the people of the archipelago' to the situation in West Papua.

This religious militia is backed by the Indonesian military. It's presence portends a level of bloodshed that will not serve Indonesian, West Papuan, or Australian security interests; and contravenes President Jokowi's positive response to the extraordinary advice of his two provincial parliaments in West Papua to enter into dialogue with the United Liberation Movement for West Papua under the auspice of an international third party.

Minister, we believe you can help address what this *impasse in Indonesia* foreshadows, and implore you to do so.

We believe you can help dissuade Indonesia from pursuing an aggressive nationalist performance in West Papua by establishing a dialogue with Vice-President Ma'ruf Amin as distinct from your counter-part and President Jokowi, who we believe cannot undo this alarming directive from their own national parliament.

Mr Amin is an experienced national politician, an Islamic scholar, and as Chairman of the Ulema Council of Indonesia the republic's most powerful Muslim cleric. While his election as Vice-President is a troubling illustration of the Islamisation of politics and weakening of secular democracy, Mr Amin has the moral, and now political authority to argue for the Indonesian Army's recall of this Islamic militia from West Papua.

Minister, in September the ULMWP watched, from inside the UN General Assembly (for the first time), as our people faced the guns to demonstrate their support. We heard member-state representatives gossip about the demise of Indonesian colonial authority in West Papua as Prime Ministers highlighted the Pacific Islands Forum communiqué—which Australia signed—asking for UN access to West Papua, and for investigation of *the root cause of the problem*.

Minister, we hope that Australia will dissuade Indonesia from its use of violence and encourage its politicians to mount legal and political arguments rather than guns as we negotiate what is an inevitable shift in the geo-political arrangements of our region.

Yours sincerely,

Jacob Rumbiak, ULMWP Spokesperson



Australian Government  
Department of Foreign Affairs and Trade

22 November 2019

Mr Dylan Wolfram  
[dylan.wolfram@iteca.edu.au](mailto:dylan.wolfram@iteca.edu.au)

Dear Mr Wolfram

Thank you for your letter of 07 November 2019 regarding Indonesia's Papua provinces. I am replying on behalf of the Minister for International Development and the Pacific.

The Australian Government recognises Indonesia's territorial integrity and sovereignty over the Papuan provinces. Our position is clearly defined by the 2006 Lombok Treaty between Indonesia and Australia. This is a longstanding and bipartisan position of successive Australian governments.

The Australian Government regularly discusses human rights matters with Indonesia, including developments in Papua. We do so at all levels of government: the Prime Minister raised and discussed Papua when he met Indonesia's President Joko Widodo recently as did Foreign Minister Payne with Foreign Minister Marsudi. Our consistent position has been that the rights of all Indonesian citizens should be upheld and credible allegations of human rights abuses, whether made against government or non-government actors, should be fully investigated, with those responsible held to account.

I trust this information is of assistance.

Yours sincerely

Tom Connor  
Assistant Secretary – Indonesia Branch

**LOMBOK TREATY (2006) ARTICLE 2.3** The Parties, consistent with their respective domestic laws and international obligations, shall not in any manner support or participate in activities by any person or entity which constitutes a threat to the stability, sovereignty or territorial integrity of the other Party, including by those who seek to use its territory for encouraging or committing such activities, including separatism, in the territory of the other Party.

**ANNETTE CULLEY (2016:83)** The Lombok Treaty ignores the fact that Australia has embedded the Rome Statute in Australian laws through the 2002 *International Criminal Court Act*, and thus determined to put an end to such acts of violence as torture, rape, enforced disappearance, and disadvantage or brutality based on racial or cultural or political or religious bias.

## **REBUTTAL OF INDONESIA'S ERRONEOUS HISTORICAL CLAIMS (Jacob Rumbiak 2001)**

**CLAIM** *West Irian has been part of Indonesia since the declaration of independence on 17 August 1945.*

**REBUTTAL** West Papuans were not invited to any resistance, peace or nation-making meetings, assemblies or conferences between 1945 and 1949, whether hosted by Republik Indonesia, the Netherlands Government, Federal Consultative Assembly, or the UN Security Council. The exception was Frans Kaisepo, founder of the Freedom Party of Indonesia, at the Malino Conference in 1946, who criticised the State of East Indonesia for not integrating Papua. Any discussion *about* West Papua in these gatherings *always* resulted in 'to be determined later' including 1949 Round Table Talks, the constitutions of the State of East Indonesia and the (federal) United States of Indonesia. Below is a list of these assemblies.

**Second Congress of Indonesian Youth, Jakarta, 28 Oct 1928** Participants from Java, Sunda, Sumatra (incl. Mohammad Yamin), Borneo, Celebes, Ambon, *not West Papua*. Congress declared *sumpah pemuda* (one motherland, one people, one language) and played what became the Indonesian national anthem.

**C'ttee for Preparatory Work for Independence of Java/BKUPK, Jan-Aug 1945** Set up by Sukarno with permission of Japan; quasi-legislature with 67 representatives from most ethnic groups including Chinese, Arab and Dutch *but not West Papuans*; developed Pancasila as the ideological basis of the state and the Jakarta Charter (draft constitution).

**Preparatory C'ttee for Indonesia's Independence/PPKI, 7-29 Aug 1945** 21-person c'ttee approved by Japan (incl. Sukarno, Hatta, Soepomo, Yamin) to prepare transfer of authority to Indonesia. Promulgated BKUPK's draft constitution after removing obligation on Muslims to abide by Sharia Law; set up (new) Indonesian National Party (PNI) and People's Security Agency (BKR, forerunner of Indonesian Armed Forces); partitioned Indonesia into 8 provinces: West, Central and East Java, Sumatra, Kalimantan, Sulawesi, Maluku, Lesser Sundas (Bali, Lombok, Sumbawa, Flores, Sumba, Timor, Alor archipelago, Barat Daya Islands, Tanimbar) *but not West Papua*. PPKI became Central Indonesian National C'ttee (KNIP) advisor to President Sukarno until December 1949, with legislative functions in the Unitary State after 1950.

**Malino Conference, South Sulawesi, 16-25 July 1946** Hosted by Netherlands the day after the Allied Forces handed back authority. Formed *federal* United States of Indonesia: Java, Sumatra (incl. Bangka, Riau, Belitung) Kalimantan, and Great East (incl. Lesser Sunda). *No West Papuans except Franz Kaisepo.*

**Linggadjati Conference, 7 Oct—25 Nov 1946** Mediated by Britain; Republik Indonesia agrees to join *federal* United States of Indonesia; the Netherlands recognises Republik Indonesia's de facto authority over Java, Madura, Sumatra. *No representative from West Papua.*

**Den Pasar Conference, Bali, Dec 1946** Hosted by the Netherlands. Fixed laws for State of East Indonesia (listed as North Celebes, Central Celebes, Timor, South Sulawesi, Moluccas, Bali-Lombok and nine smaller constitutions, *but not West Papua whose relationship with the State of East Indonesia and United States of Indonesia 'to be determined at a later date'.*

**Renville Agreement, 8 Dec 1947—17 Jan 1948** Brokered by UN Security Council. Cease fire talks between Netherlands and Republik Indonesia. Restated Linggadjati commitment to a federal United States of Indonesia; each state to decide via referendum to join Republik Indonesia or United States of Indonesia. Federal Consultative Assembly (BFO) set up to lead the federal states.

**Parliamentary Mission, Jakarta, Yogyakarta, 16-18 Feb 1948** State of East Indonesia *not West Papua* visits Republik Indonesia and attends Renville Dinner.

**Federal Consultative Assembly, 15 July 1948** Created provisional government for federal United States of Indonesia (*all Nederlands-Indië except West Papua*).

**Federal Consultative Assembly, October 1948** *West Papua to remain under Dutch crown but administered by Dutch-Indonesian administration.*

**Council of Rajas, Denpasar, 14 March 1949** Organised by State of East Indonesia. *No representative from West Papua.*

**Roem-van Roijen Agreement, 14 April—7 May 1949.** Cease fire talks between Dutch and Republik Indonesia hosted by the UN. *No West Papuans.*

**Inter-Indonesian Conference, Jogjakarta 19-22 July, Jakarta 31 Jul-2 Aug 1949.** Republik Indonesia and Federal Consultative Assembly draft constitution for (federal) United States of Indonesia. *West Papua not in constitution.*

**Round Table Conference, Holland, 23 Aug—2 Nov 1949** Auspiced by UN Security Council. Nederlands-Indië *but not Nederlands Nieuw-Guinea* transferred to (federal) United States of Indonesia. Status of West Papua 'to be negotiated between Indonesia and Netherlands within twelve months' (Article 2). No mention of West Papua or Nederlands-Nieuw-Guinea in Provisional Constitution.

*No West Papuans invited to the Round Table conference. Johan Ariks, Nicolaas Jouwe and Marcus Kaisepo got to Holland in October (but not to the conference) where their articulate arguments and petitions (from Geelvink Bay, Lake Sentani, Hollandia) stiffened the resolve of Dutch to keep West Papua out of Indonesia.*

## REBUTTAL OF INDONESIA'S ERRONEOUS HISTORICAL CLAIMS (Jacob Rumbiak 2001)

### **CLAIM** *West Irian was part of the Majapahit Empire*

**REBUTTAL** The Majapahit Empire was a kingdom in East Java with trading links to the Chinese Ming dynasty, Annam and Champa in Vietnam, Cambodia, Siam, the Burmese Martaban, and Vijayanagara in south India. Majapahit (Javanese: *maja*/tree *pahit*/bitter) emerged from the ashes of a battle in 1293 after a Javanese king first allied with, then betrayed Kublai Khan's tribute-demanding mission of 1000 ships and warriors. Less than one-hundred years later Majapahit was wracked by civil war and succession disputes after the death of its most successful ruler King Hayam Wuruk in 1389 (tradition has its demise a century later, in 1478, and surviving until 1530). Majapahit had no significant administrative power outside Java, Bali and Madura, but nationalists Sukarno and his entrepreneurial scholar Mohammad Yamin built an historical construct around the Hindu-Buddhist thalassocracy as 'proof' of their modern nation's 'unified' history and the territorial integrity of its political boundaries.

There is no evidence that West Papua was a part of the Majapahit Empire other than a single-word mention of 'Wanin' (on the Onin Peninsula) in the Javanese poetic narrative *Nāgarakṛtāgama*. Written in 1365, this old-Javanese *kakawin* venerates King Hayam Wuruk, Majapahit's most successful ruler, with a detailed account of life in his wealthy kingdom and a name-map of its empirical reach. At best Wanin may have been one of the empire's eighty-nine tributaries, but such is Yamin's reputation as the founding father of modern Indonesia that his assemblage of facile 'facts' are still printed in Indonesian documents including school curricula. He also claimed that Majapahit included Madagascar in West Africa and the Pas archipelago off the coast of Chili!

### **CLAIM** *West Irian belonged to the Sultanate of Tidore*

**REBUTTAL** There is little to suggest that West Papua belonged to Tidore, although much is written, and acknowledged, about relations between the two peoples. Tidore is a tiny volcanic island (155km<sup>2</sup>) 460 km north-west of Sorong. (West Papua by comparison is 459,412kms<sup>2</sup>). In the 1940s and 1950s Soekarno and Anak Agung (from State of East Indonesia) used a 1660 Sultan's claim that West Papua was under his control, but opportunistically ignored

statements by Mr Keyts (Governor of Banda Island in 1679) that the Sultan's claim should not be taken seriously. In 1775 the Royal Navy's Captain Thomas Forrest, and in 1778 the Governor of Ternate also said the Sultan had no power in nor claim over the territory. An 1850 Dutch Report described Biak-Numfoor-Ansus islanders as victims of Tidore *hongis* expeditions involving 'thievery, pillage, abduction, rape' made possible by firearms the Sultan obtained from Europeans (Kal Muller 2001:66).

### **CLAIM** *The Dutch were occupying Indonesian territory and their decolonisation motion of 1961 was designed to bring on secession and a 'fractionation' of people.*

There had never been an independent national unit comprising Indonesia and West New Guinea, meaning the territorial integrity of the Indonesian Republic could not be disrupted by recognition of the West Papuans' right of self-determination. Between 1950 and 1962 the Netherlands was the Administering Power of the Non-Self-Governing Territory of West New Guinea. Its motion in the UN General Assembly in 1961 was part of its *bona fide* process to deliver self-determination to the people of that territory.

One reason for West Papua not joining the (federal) United States of Indonesia in 1949 was its very different colonial experience. In 1600 the Dutch gun-fired entry into resource-rich Java and the Moluccas spice islands, marking the start of a profitable export economy that remained the basis of colonialism-proper after 1800 when a bureaucratic, centralizing polity in Batavia/Java anchored a political system largely based on oppression and violence. West Papua was not part of this. There were no administration posts in West New Guinea until 1898, three centuries after the Dutch invaded Java and Moluccas. The West Papuan experience of Dutch 'colonialism' until World War Two was almost exclusively with missionaries who brought modern education and health systems to the villages they were 'civilising' and 'christianising'. From mid-1944, *Nederlands Nieuw-Guinea* was administered by the Dutch Resident in Hollandia. This was, again, different to *Nederlands-Indië* which remained under Japanese control, centralised in Java, until September 1945, and then to war with the Netherlands until 1949.



## **REBUTTAL OF INDONESIA'S ERRONEOUS LEGAL CLAIMS** **(Jacob Rumbiak 2001)**

**CLAIM** *The 1949 Transfer of Sovereignty from the Netherlands to the (federal) Republic of the United States of Indonesia included West Irian.*

**REBUTTAL** West Irian/West New Guinea was not transferred to Indonesia in 1949. Article 2, Charter of Transfer of Sovereignty, 2 November 1949, states: "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 Republic of the United States of Indonesia the question of the political status of New Guinea be determined by negotiation between Indonesia and the Netherlands." (It was agreed, according to the minutes, that status quo meant remains 'under Netherlands sovereignty').

Negotiations in 1950 failed because Indonesia insisted that UN decolonisation principles were 'irrelevant' and 'inadmissible'; and because within six months of the transfer of sovereignty (i.e., by May 1950) Indonesia's first government had bulldozed the (federal) Republic of the United States of Indonesia and replaced it with a unitary state with a different constitution.

**19 May 1950** Statement by Dr A Halim (Prime Minister, United States of Indonesia) and Dr M Hatta (Prime Minister, Republic of Indonesia). "We agree to implement in co-operation and in the shortest possible time the formation of a Unitary State which shall be a materialization of the Republic of Indonesia based on the Proclamation of August 17 1945" (Herb Feith *The Decline of Constitutional Democracy* 1962:69).

**15 August 1950** Republic of the United States of Indonesia is dissolved in a joint session of the federation's bicameral legislature and replaced with a unitary republic. "President Sukarno abolished the federal structure, using force to crush separatists movements in South Moluccas and Sumatra, and dissolved the largely ceremonial union between the Netherlands and Indonesia. Both the federal system and the union were constitutional devices which, theoretically, should have helped to smooth the way for bringing West New Guinea together with Indonesia: the federal system, by promoting local autonomy for the distinct, if backward, Papuan people; the union, by retaining a symbolic Dutch responsibility for Papuan advancement" (Thomas M Franck *Nation against nation: What happened to the U.N. dream and what the U.S. can do about it* 1985:77).

**26 September 1950** Six weeks after the the federal republic was dissolved, the UN Security Council recommended by vote of 10-0 (China abstained) that the General Assembly admit the unitary Republic of Indonesia 'as a peace-loving state, in compliance with the UN Charter' (UN Security Council Res. 86, 26 Sept 1950). Two days later the General Assembly complied (Res. 491 (V), 28 Sept 1950). On 21 April 1956 Indonesian Republic unilaterally rescinded the UN-auspiced 1949 Charter of Transfer of Sovereignty.

**CLAIM** *West Irian, as part of the former Netherlands East Indies, was Indonesian territory because of the doctrine of uti possidetis.*

**REBUTTAL** It is clear from a perusal of customary international law that sovereignty is not conveyed by the principle of *uti possidetis*, which is not a binding norm of international law and there is no legal requirement to use it' (Annette Culley 2016:18, 56, citing Ratner S *Drawing a better line: uti possidetis and the borders of new states* 1996:599-600).

*Uti possidetis* is a legal principle used by some emerging states that had been colonies to inherit their colonial borders ... but was not consistently used in the break-up of colonial states, or in treaties, and has never become part of customary international law.

Indonesia rejected all offers by The Netherlands to submit their dispute over West New Guinea to the International Court of Justice, claiming the court had no competence to solve what it claimed was a 'colonial' issue.

The Australian representative to the UN in 1961 was critical of Indonesia's stance during the debate in the Sixteenth Session in November 1961:

"It would have been normal, and thoroughly in accordance with the provisions and the spirit of the Charter, that a sovereignty dispute over territory should be referred to the International Court of Justice. Indeed, the Netherlands have been prepared to do this, and this willingness has further confirmed the Australian conviction that the Netherlands had, and have, the law on their side. However, as we know, Indonesia was not prepared to submit to the Court, arguing that this was not a legal but a political question".

(Par 25, UNGA Official records, Sixteenth Session, 1055<sup>th</sup> Plenary Meeting, 15 November 1961).

## **REBUTTAL OF INDONESIA'S ERRONEOUS LEGAL CLAIMS** **(Jacob Rumbiak 2001)**

**CLAIM** *The 1949 Charter of Sovereignty did not mention the peoples' right of self-determination.*

**REBUTTAL** The Agreement on Transnational Measures signed by Indonesia and the Netherlands at the Round Table Conference in 1949 established the right of territories to exercise self-determination with regard to their position within the Federal Republic of Indonesia, and the possibility of negotiating a special relationship outside the Republic. (Annette Culley 2016:49, citing UN Yearbook 1957).

**CLAIM** *West Irian was not a Non-Self-Governing Territory*

**REBUTTAL** "Until 1962 West Irian (West New Guinea) was listed in General Assembly Resolution 66 (I) as a non-self-governing territory under the Administrative authority of the Netherlands and ceded to Indonesia in 1962 subject to UN supervised referendum in 1969" (Annette Culley 2016:85, citing Crawford J *The creation of States in International law* 2006:748).

The future status of a Non-Self-Governing Territory does not bear any relationship to the existing sovereignty of the territory. The final destiny of a Non-Self-Governing Territory must be based on the principle of self-determination, and the *bona fide* process must be safeguarded. The Netherlands was fulfilling its obligations under Article 73, and these obligations would cease if the territory became an integral part of Indonesia.

The Friendly Relations Declaration 2625 (1975) states, *inter alia*, that: The territory of a colony or other Non-Self-Governing Territory, has, under the Charter, a status separate and distinct from the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter ....

"It seems clear from this and other formulations of the principle of self-determination that where the principle applies, it does so as a right of the peoples concerned; it is not a matter simply of rights and obligations as of between existing States. Another State may well be interested in the result of an act of self-determination, in that it may stand to gain or regain territory. But to treat self-determination as a right of that State would be to deny the

reality of the alternative options open to the people concerned" (Annette Culley 2016:147, citing Crawford J *The creation of States in international law* 2006:617-618)

### **Resolution 1541 (XV), 15 December 1960**

*Principle VI: A Non-Self-Governing Territory can be said to have reached a full measure of self-government by one of three measures: (a) Emergence as a sovereign independent State; (b) Free association with an independent State; (c) Integration with an independent State.*

*Principle IX (b):* Integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage.

**CLAIM** *West Papuan independence movement is illegal because it is separatist.*

**REBUTTAL** There have been suggestions that there is a prohibition against declarations of independence in the territorial integrity clauses particularly as they are reiterated in United Nations instruments, especially in UNGA Resolution 2625 (XXV). However the principle of territorial integrity is confined to the sphere of relationships between States. James Crawford states that '... secession is neither legal nor illegal in international law, but a legally neutral act the consequences of which are regulated internationally (Annette Culley 2016:124, citing Crawford J *The creation of States in international law*, 2006:390).

Modern day international law embraces the right of non-colonial people to secede from an existing state 'when the group is collectively denied civil and political rights and subject to egregious abuses', a right known as the remedial right to secession. In more recent times the writing of numerous scholars; the Bill of Rights that includes the Universal declaration of human rights plus the two Covenants; General Assembly resolutions; judicial opinions; declarations of international organisations and State practices have all given support to the right of secession from an existing state in cases where a group has been denied civil and political rights and has suffered extreme abuse (Annette Culley 2016:126, citing Sharf MP *Earned sovereignty; juridical underpinnings* 2004:387-9).

## INDONESIAN MOTIONS IN UN ABOUT WEST IRIAN (WEST PAPUA)

### 10 Dec 1954, 9<sup>th</sup> UN General Assembly. Failed two-thirds majority vote

On 22 September 1954 the Indonesian Government requested that its demand for the transfer of sovereignty over Dutch New Guinea from the Netherlands be added to the agenda of the 9th session of the General Assembly. During November the matter was discussed and voted upon in the Political Committee. By a vote of 34-14, with abstentions, the Political Committee called on the Dutch and the Indonesians to put forward their best efforts to reach a settlement. When the matter came before the Plenary Session of the UN Assembly, on December 10<sup>th</sup> 1954, the resolution did not achieve the necessary two-thirds majority and so was defeated (CASEY, the Rt. Hon. R.G. *Friends and Neighbours Australia, the U.S. and the World* 1955:146).

### 16 Dec 1955, 10<sup>th</sup> General Assembly. Res. 915 (X)

Introduced by 15 African and Asian states Shortly before the item was considered in c'tee, the Dutch and Indonesians agreed to negotiate bilaterally on several outstanding matters, so the General Assembly adopted without objection the following resolution:

*Having considered* the item on the agenda of its tenth session entitled "The question of West Irian (West New Guinea)"; *Hoping* that the problem will be peacefully resolved; *Noting* the joint statement issued by the governments of Indonesia and the Netherlands on 7 December 1955; *Expresses* the hope that the negotiations referred to in the said joint statement will be fruitful.

### 1956, 11<sup>th</sup> General Assembly. Failed two-thirds majority vote

A draft resolution establishing a Good Offices Commission for the purpose of assisting negotiations between the two parties was introduced to the General Assembly failed to obtain a two-thirds majority vote.

### 29 Nov 1957, 12<sup>th</sup> General Assembly. Failed two-thirds majority (41-29, 11)

Draft resolution inviting both parties to find a peaceful solution and Sec-General to assist implementing the draft resolution. The First C'tee considered this item at eight meetings between 20 and 26 November 1957.

Majority favoured inviting the parties to find a peaceful resolution; others believed the draft resolution could not produce tangible results because the two parties could not even agree on the subject of future negotiations.

**YES VOTES (41)** Afghanistan, Albania, Bolivia, Bulgaria, Burma, Byelorussian SSR, Ceylon, Costa Rica, Czechoslovakia, Egypt, El Salvador, Ethiopia, Ghana, Greece, Guatemala, Haiti, Hungary, India, Indonesia, Iran, Iraq, Japan, Jordan, Laos, Lebanon, Libya, Federation of Malaya, Morocco, Nepal, Pakistan, Poland, Romania, Saudi Arabia, Sudan, Syria, Thailand, Tunisia, Ukrainian SSR, USSR, Yemen, Yugoslavia. **NO VOTES (29)** Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Cuba, Denmark, Dominican Republic, France, Honduras, Iceland, Ireland, Israel, Italy, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Peru, Portugal, Spain, Sweden, Union of South Africa, United Kingdom. **ABSTAIN (11)** Cambodia, Ecuador, Finland, Liberia, Mexico, Panama, Paraguay, Turkey, United States, Uruguay, Venezuela.

## Indonesia's argument was based on two assumptions:

1. West New Guinea was part of Indonesia; illegally occupied by the Dutch.
2. Territory to be transferred to Indonesia without its people being consulted.

The Netherlands was willing to have the first assumption tested by the International Court of Justice, but the second assumption denied self-determination and was contrary to the UN Charter.

## Indonesia's mendacious warnings included:

1. It was an emergency, and would be Indonesia's last diplomatic effort;
2. The principle of self-determination was being invoked to prevent a peaceful settlement, and to prevent the reunification of a divided State;
3. Indonesia was *fighting against* the 'amputation' of West Irian and *fighting for* the principle of reunification and national unity;
5. The replacement of democratic Indonesia with a different political system risked the stability, peace and security of South-East Asia;
7. Indonesia would have to replace the rule of international law with the rule of the jungle if the Dutch persisted with its rigid position about sovereignty;
6. Australia and Netherlands statement on 6 November 1957 had military implications with forebodings of a military alliance against Indonesia;
7. Indonesia would advance education and the social in West Irian.

## The Netherlands position:

1. It was fulfilling Article 73 obligations, and to transfer the territory without ascertaining the peoples wishes would be to forsake its duty to them and the UN.
2. In the absence of opportunity for the people to decide their own political future it would not countenance Indonesian threats to annex the territory, nor enter into any negotiations about its future status.

## Australia declared:

1. The Netherlands was abiding by its obligations under Article 73, and these obligations would cease if the territory became an integral part of Indonesia;
2. Its 1957 agreement with the Netherlands was fully consistent with Chapter XI of the UN Charter, had no military implications, and was a solemn undertaking;
3. Two Governments that they were preparing the people for self-determination.

(UN Yearbook 1957, Part I, Section I, Ch 8, The Question of West Irian).



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Page 2	Image	<i>Dani woman</i> , Ashley Gilbertson, 2001 (a gift from Gilbertson to Jacob Rumbiak).
Page 3	Text	Poem by Benny Wenda. In <i>Indonesia escalates repression in West Papua</i> , Red Flag, 23 Sept 2019, at <a href="https://redflag.org.au/node/6895">https://redflag.org.au/node/6895</a>
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	Images	<i>HMAS Arunta, Tanahmera Bay, 22 April 1944</i> , Australian War Memorial, at <a href="http://www.awm.gov.au/collection/C356471">www.awm.gov.au/collection/C356471</a> <i>Curtiss Kittyhawk, 78 Squadron, Noemfoor Island 1944</i> , 80 Years of RAAF 1921-2001, Chevron Publishing Group, NSW, 2002. <i>Noemfoor Island Memorial Service, October 1944</i> , Australian War Memorial, at <a href="https://www.awm.gov.au/collection/C234379">https://www.awm.gov.au/collection/C234379</a>
Page 9	Images	<i>Papuan Volunteers Battalion (PVK) with Japanese prisoner</i> , in 'West Papua, Follow the Morning Star' by Ben Bohane, Liz Thompson, Jim Elmslie, Prowling Tiger Press, Melbourne 2003:p22. <i>Aircraft Cemetery, Biak, 1947</i> , Klaas Meijer (Dutch historian and veteran), at <a href="https://twitter.com/klaasm67/status/779944199093424128">https://twitter.com/klaasm67/status/779944199093424128</a> <i>Papoea Soldiers, Manokwari 1949</i> , at <a href="https://www.papuaerfgoed.org/en/The_Papua_Volunteers_Corps">https://www.papuaerfgoed.org/en/The_Papua_Volunteers_Corps</a> <i>PVK at Japanese Surrender Ceremony</i> , Dutch website about Manokwari after the war, at <a href="http://www.west-papua.nl/Plaatsen/Manokwari.htm">www.west-papua.nl/Plaatsen/Manokwari.htm</a>
Page 10	Texts	PENDERS, CLM (2002) <i>The West New Guinea debacle—Dutch decolonisation and Indonesia 1945-1962</i> (details at p6). VISSER, Leontine (ed) In 'Governing New Guinea, an oral history of Papuan administrators 1950-1990', Land-en Volkenkunde (KITLV, Royal Netherlands Institute of Southeast Asian & Caribbean Studies), at <a href="https://brill.com/view/title/22940">https://brill.com/view/title/22940</a> IPENBURG, At (2004) <i>A Church history of West Papua</i> , at <a href="http://atipenburg.nl/a-church-history-of-west-papua/">http://atipenburg.nl/a-church-history-of-west-papua/</a>
	Images	Johan Ariks in 1950. <i>Memory of the Netherlands, The Dutch East Indies in Photographs 1860-1940</i> , Koninklijk Instituut voor taal-, land- en volkenkunde, at <a href="http://www.geheugenvannederland.nl">www.geheugenvannederland.nl</a> > Johan Ariks in zijn werkkamer.
Page 11	Texts	PENDERS, CLM (2002) <i>The West New Guinea debacle—Dutch decolonisation and Indonesia 1945-1962</i> (details at p6). UNGA Resolution 448 (V) 1950, at <a href="https://undocs.org/en/A/RES/448(V)">https://undocs.org/en/A/RES/448(V)</a> UN General Assembly, Sixteenth Session, Official Records, 1055 <sup>th</sup> meeting, 15 November 1961, at <a href="https://digitallibrary.un.org/record/744203?ln=en#record-files-collapse-header">https://digitallibrary.un.org/record/744203?ln=en#record-files-collapse-header</a> > A_PV-1055-EN.pdf
	Images	<i>Nieuw Guinea RAAD, Dutch New Guinea in HD Color 1949-1962</i> , at <a href="https://www.youtube.com/watch?v=4g5z5s0dm_U">https://www.youtube.com/watch?v=4g5z5s0dm_U</a>
Page 12	Texts	PENDERS, CLM 2002 <i>The West New Guinea debacle—Dutch decolonisation and Indonesia 1945-1962</i> (details at p6). CONBOY, Ken (2002) <i>Kopassus; inside Indonesia's special forces</i> Equinox Publishing 2002, at <a href="http://www.epdf.pub_kopassus-inside-indonesias-special-forces.pdf">www.epdf.pub_kopassus-inside-indonesias-special-forces.pdf</a> KROEF, Justus M. van der <i>Nationalism and politics in West New Guinea</i> University of British Columbia, Pacific Affairs, Vol. 34, No. 1, 1961. Free online through jstor.org POULGRAIN, Greg 2015 <i>The Incubus of Intervention; Conflicting Indonesia strategies of John F Kennedy and Allen Dulles</i> (details at p6).

Page 13	Images	<p>Netherlands New Guinea paper money 1949-1962, World Paper Money Catalog and History, at <a href="http://www.atsnotes.com/catalog/banknotes/netherlands-new-guinea.html">http://www.atsnotes.com/catalog/banknotes/netherlands-new-guinea.html</a>.</p> <p>Farming lessons at an agricultural school in Kota Nica (1955), at <a href="http://collectie.tropenmuseum.nl">collectie.tropenmuseum.nl</a></p> <p>Road making in the interior of West New Guinea, 1959, Zuma Press/Alamy Stock Photos FPA7F6, at <a href="http://www.alamy.com">www.alamy.com</a></p> <p>Immunisation program for malaria, tuberculosis, yaws, 1961 Article 73 (e) Report from Netherlands Nieuw Guinea, at <a href="http://wpik.org/Src/un_report_1961.html">http://wpik.org/Src/un_report_1961.html</a></p> <p>School in Sorong, West New Guinea 1962, Zuma Press/Alamy Stock Photo FPA698, at <a href="http://www.alamy.com">www.alamy.com</a></p>
Page 14	Texts	PENDERS, CLM 2002 <i>The West New Guinea debacle—Dutch decolonisation and Indonesia 1945-1962</i> (details at p6).
	Images	<p><i>The washing machine comes to New Guinea</i>, 6 January 1960, © Keystone Pictures USA/<a href="http://www.zumapress.com">zumapress.com</a>, at <a href="https://www.alamy.com/stock-photo-1962-the-washing-machine-comes-to-new-guinea-a-popuan-happily-wrings-89333346.html">https://www.alamy.com/stock-photo-1962-the-washing-machine-comes-to-new-guinea-a-popuan-happily-wrings-89333346.html</a></p> <p><i>Papuan highlander and Dutch missionary nuns</i>, in ‘West Papua Follow the Morning Star’ 2003:p34 (details at p9).</p>
Page 15	Images	<p>Coat of Arms adopted by New Guinea RAAD on 19 October 1962, but not mentioned in the Manifesto; features Morning Star flag, 2 birds of paradise, garland of orchids, and motto <i>Setia Djudjur Mesra</i> (Loyal, Honest, Affectionate), at <a href="http://www.hubert-herald.nl/Papua.htm">http://www.hubert-herald.nl/Papua.htm</a></p> <p><i>Woman voting for New Guinea Council (RAAD), January 1961</i>, Still from <i>Dutch New Guinea in HD Color 1949-1962</i> (at 35:18 minute), at <a href="https://www.youtube.com/watch?v=4g5z5s0dm_U">https://www.youtube.com/watch?v=4g5z5s0dm_U</a></p> <p><i>RAAD member Mrs Tokoro-Hanasby and Governor Platteel</i>, 5 April 1961, Still from <i>Dutch New Guinea in HD Color 1949-1962</i> (at 38:00).</p> <p><i>Sir Alistair McMullin, President of the Australian Senate</i>, at the Inauguration of the New Guinea RAAD, 5 April 1961, Still from <i>Dutch New Guinea in HD Color 1949-1962</i> (at 38:51).</p> <p>Presidents Kennedy and Ahmed Sukarno, Andrews Air Force Base, Maryland, 24 April 1961, White House Photographs, John F. Kennedy Presidential Library and Museum, at <a href="http://www.jfklibrary.org/Asset-Viewer/Archives/JFKWHP-1961-04-24-A.aspx">www.jfklibrary.org/Asset-Viewer/Archives/JFKWHP-1961-04-24-A.aspx</a></p> <p><i>New Guinea RAAD votes on proposal</i>, May 1961, at <a href="http://www.alamy.com">www.alamy.com</a></p> <p>Queen Juliana’s (recorded) speech, 5 April 1961, National Parliament of West Papua website, at <a href="http://www.westpauaparliament.org/instalation-of-the-new-guinea-coucil/">http://www.westpauaparliament.org/instalation-of-the-new-guinea-coucil/</a></p> <p>Sydney Morning Herald <i>New Council for West N.G. begins session</i>, 6 April 1961, at <a href="http://wpik.org/Src/SMH/19610406p6.pdf">http://wpik.org/Src/SMH/19610406p6.pdf</a></p>
Page 16	Texts	<p>Manifesto, Papuan Peoples Congress, October 1961, at <a href="http://www.westpauaparliament.org/manifesto-from-first-papuan-peoples-congress-19th-october-1961/">http://www.westpauaparliament.org/manifesto-from-first-papuan-peoples-congress-19th-october-1961/</a></p>
Page 17	Texts	<p>UN Legal Records, Ch XI, Art 73, Pars 841-76, 763-66, at <a href="http://legal.un.org-repitory-art73-english-rep_supp3_vol3-art73_e.pdf">legal.un.org-repitory-art73-english-rep_supp3_vol3-art73_e.pdf</a></p> <p>UN General Assembly, 16<sup>th</sup> Session, 1055<sup>th</sup> meeting, 15 November 1961, at <a href="https://digitallibrary.un.org/record/744203?ln=en#record-files-collapse-header">https://digitallibrary.un.org/record/744203?ln=en#record-files-collapse-header</a> &gt; A_PV-1055-EN.pdf</p> <p>UN General Assembly, 16<sup>th</sup> session, 1050<sup>th</sup> plenary meeting, 9 November 1961, at <a href="https://digitallibrary.un.org/record/744199?ln=en">https://digitallibrary.un.org/record/744199?ln=en</a></p>



Page 18	Texts	<p>LAMBERT, George ICJ (2001) <i>West Papua: Real Politik v International Law</i>, Yumi Wantaim: talking about West Papua, Melbourne 15-16 Sept 2001, at <a href="https://dfait.federalrepublicofwestpapua.org/document/west-papua-real-politik-v-international-law-by-george-lambert-icj-2000/">https://dfait.federalrepublicofwestpapua.org/document/west-papua-real-politik-v-international-law-by-george-lambert-icj-2000/</a></p> <p>LAMBERT, George ICJ (2000) <i>West Papua: Real Politik v International Law</i>, International Commission of Jurists, at <a href="https://dfait.federalrepublicofwestpapua.org/document/west-papua-real-politik-v-international-law-by-george-lambert-icj-2000/">https://dfait.federalrepublicofwestpapua.org/document/west-papua-real-politik-v-international-law-by-george-lambert-icj-2000/</a></p> <p>UN General Assembly, 16<sup>th</sup> Session, 1055<sup>th</sup> meeting, 15 November 1961 (details at p17).</p>
Page 19	Images	<p>Opening, Nieuw Guinea RAAD, <i>New Guinea Chronicle 21-the road to self-determination</i>, at <a href="http://www.youtube.com/watch?v=iDgwFEBdfAs">www.youtube.com/watch?v=iDgwFEBdfAs</a></p> <p>Banners, 1 December 1961 Event, Sorong, at <a href="https://www.youtube.com/watch?v=jgydCmvP33I">https://www.youtube.com/watch?v=jgydCmvP33I</a></p> <p>Manokwari, 1st December 1961, by Ruud Bauwens who lived in Manokwari, and was a keen photographer, but had to burn thousands of slides, photos, and negatives before he left New Guinea in 1962, at <a href="http://www.west-papua.nl/Verantwoording.htm">http://www.west-papua.nl/Verantwoording.htm</a></p> <p>1st December 1961 Hollandia, Still from home video by Dutch resident, at <a href="https://www.youtube.com/watch?v=jgydCmvP33I">https://www.youtube.com/watch?v=jgydCmvP33I</a></p>
Page 20	Texts	<p>CONBOY, Ken (2003) <i>Kopassus; inside Indonesia's special forces</i> 2003:p75 (details at p12).</p> <p>LAMBERT, George (2000) <i>West Papua: Real Politik v International Law</i>, International Commission of Jurists, at <a href="https://dfait.federalrepublicofwestpapua.org/document/west-papua-real-politik-v-international-law-by-george-lambert-icj-2000/">https://dfait.federalrepublicofwestpapua.org/document/west-papua-real-politik-v-international-law-by-george-lambert-icj-2000/</a></p> <p>PENDERS, CLM (2002) <i>The West New Guinea debacle—Dutch decolonisation and Indonesia 1945-1962</i> (details at p6).</p>
Page 21	Texts	<p>New Guinea Council, Statement, 16 February 1962, at <a href="http://wpik.org/Src/WNGC_res00.html">http://wpik.org/Src/WNGC_res00.html</a>; also as Appendix in Viktor Kaisiëpo (2003) <i>The case of West Papua sovereignty</i>, for the United Nations High Commissioner for Human Rights.</p>
Page 22	Texts	<p>SALTFORD, John (2003) <i>The United Nations and the Indonesian Takeover of West Papua 1962-1959, The anatomy of betrayal</i>, Routledge Curzon, at <a href="2017/04/john-saltford-united-nations-and-the-indonesian-takeover-of-west-papua-1962-1969.pdf">2017/04/john-saltford-united-nations-and-the-indonesian-takeover-of-west-papua-1962-1969.pdf</a></p>
	Image	<p>Acting Secretary-General U Thant, and Muhammad Zafrulla Khan (Pakistan), President of 1962 General Assembly, at <a href="https://www.unmultimedia.org/photo/gallery.jsp?query=186117">https://www.unmultimedia.org/photo/gallery.jsp?query=186117</a></p>
Page 23	Texts	<p>CULLEY, Annette (2016) <i>West Papua: Decolonisation, Boundaries and Self Determination, a summary of modern West Papua's legal history and future prospects</i> Federal Republic of West Papua, Docklands, also at <a href="dfait.federalrepublicofwestpapua.org/wp-content/upWoloads/2017/06/West-Papua-Decolonization-Boundaries-and-Self-Determination-Annette-Culley.pdf">dfait.federalrepublicofwestpapua.org/wp-content/upWoloads/2017/06/West-Papua-Decolonization-Boundaries-and-Self-Determination-Annette-Culley.pdf</a></p> <p>LAMBERT, George (2001) <i>West Papua: Real Politik v International Law</i> (details at 18).</p>
	Image	<p><i>New York Agreement</i>, Signing at UN Headquarters on 15 August 1962; and West Papuans protest the New York Agreement as UN Military Observers land in West Papua on 20 August 1962. Stills from <i>The Transfer of Dutch New Guinea from Netherlands to Indonesia (1962–63)</i> Dutch Docu Channel, at <a href="https://www.youtube.com/watch?v=jnqOaS9G61g">https://www.youtube.com/watch?v=jnqOaS9G61g</a></p>

Page 24	Texts	<p>UN Security Force Report, West New Guinea, at <a href="https://peacekeeping.un.org/en/mission/past/unsfbackgr.html">https://peacekeeping.un.org/en/mission/past/unsfbackgr.html</a></p> <p>CULLEY, Annette (2016) citing UN Records, 1127<sup>th</sup> Plenary Meeting, 21 September 1962 (details at p23).</p> <p>UN Peacekeeping Report, at <a href="https://peacekeeping.un.org/en/mission/past/unsfbackgr.html">https://peacekeeping.un.org/en/mission/past/unsfbackgr.html</a></p>
	Images	<p><i>West Papuans protest New York Agreement as UN Military Observers arrive on 20 August 1962</i> (details at p23).</p> <p><i>1,100 Pakistan troops leave for West New Guinea as the 'Security Force of the United Nations Temporary Executive Authority' (UNTEA), Karachi, Pakistan, 18 September 1962</i>, at <a href="http://www.unmultimedia.org/photo/detail.jsp">www.unmultimedia.org/photo/detail.jsp</a> &gt; Photo # 366815.</p>
Page 25	Texts	<p>FRANK, Thomas (1985) <i>Nation against Nation: What happened to the UN dream and what the US can do about it</i>, Oxford University Press.</p> <p>RUMBIAK, Jacob (2001) <i>West Papua's Right to Self-determination</i> Adelaide Festival of Ideas 2001, at <a href="https://dfait.federalrepublicofwestpapua.org/document/west-papuas-right-to-self-determination/#identifier_0_302">https://dfait.federalrepublicofwestpapua.org/document/west-papuas-right-to-self-determination/#identifier_0_302</a></p> <p>SAROY, Luther (2012) <i>Surprised to see beggars</i>, In 'Governing New Guinea: An Oral History of Papuan Administrators, 1950-1990' (Leontine Visser (ed), Brill, 2012: pp181-202, at <a href="https://www.jstor.org/stable/10.1163/j.ctt1w8hotk.12?seq=14#metadata_info_tab_contents">https://www.jstor.org/stable/10.1163/j.ctt1w8hotk.12?seq=14#metadata_info_tab_contents</a></p>
	Image	<p><i>West Papuans protest New York Agreement as UN Military Observers land on 20 August 1962</i> (details at p23).</p>
Page 26	Images	<p><i>Indonesia's Angry Man</i> The Sun-Herald, 5 May 1963, at <a href="https://wpik.org/Src/SMH/19630505_SMH_SukarnoSpeech.jpg">https://wpik.org/Src/SMH/19630505_SMH_SukarnoSpeech.jpg</a></p>
Page 27	Texts	<p>HUNTER, Helen <i>Indonesia 1965: The coup that backfired</i> CIA REPORT 1968, in 'The United States and the overthrow of Sukarno, 1965-1967' by Peter Dale Scott, Pacific Affairs, Vol. 58, No.2, 1985:239-264).</p> <p>LAMBERT, George ICJ (2001) <i>West Papua: Real Politik v International Law</i> (details at p18).</p> <p>RUMBIAK, Jacob (2001) <i>West Papua's Right to Self-determination</i> (details at p25).</p>
	Image	<p><i>Raising Indonesian flag at the residence of UNTEA Administrator, Hollandia, 31 December 1962</i>, at <a href="http://www.unmultimedia.org/photo/detail.jsp">www.unmultimedia.org/photo/detail.jsp</a> &gt; Photo # 159701.</p> <p><i>Dutch Foreign Affairs Minister Joseph Luns with UN-Secretary General U Thant</i>, at <a href="https://www.wikiwand.com/en/Joseph_Luns">https://www.wikiwand.com/en/Joseph_Luns</a></p>
Page 28	Texts	<p>CULLEY, Annette (2016). Details at p23.</p> <p>JOHNSON Andrew (2016) in Annette Culley 2016, Ch. 11 <i>West Papua and the United Nations Trusteeship System</i> (details at p23).</p> <p>DROOGLEVER Pieter (2005) <i>An Act of Free Choice: Summary</i>, at <a href="http://resources.huygens.knaw.nl/indonesischebetrekkingen1945-1969/DekolonisatieVanIndonesieEnHetZelfbeschikkingsrechtVanDePapoea/papers_pdf/summary_afc">http://resources.huygens.knaw.nl/indonesischebetrekkingen1945-1969/DekolonisatieVanIndonesieEnHetZelfbeschikkingsrechtVanDePapoea/papers_pdf/summary_afc</a></p> <p>CRAWFORD James (2006) <i>The creation of states in International Law</i> 2<sup>nd</sup> ed. Oxford University Press, in Annette Culley 2016 (details at 23)</p> <p>BORAY Joel 2012 <i>Koteka are better than pants</i>, in 'Governing New Guinea, an oral history of Papuan administrators 1950-1990' (details at p7)</p> <p>POMERANCE Mishla 1982 <i>Self-determination in law and practice: the new doctrine in the United Nations</i>, in Culley, A 2016 (details at p23).</p>
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Page 30	Texts	LAMBERT George (2001) ‘ <i>West Papua : Real-Politik v International</i> ’ (details at p18).
Page 34	Text	SALTFORD John 2003:p4 <i>The United Nations and the Indonesian Takeover of West Papua 1962—1959, the anatomy of betrayal</i> (details at p22) citing The Jakarta Post, 9 November 1999 (details at 20).
Page 35	Image	Stu Kellaway <i>Pussy Riot and Yothu Yindi raise Morning Star flag</i> Adelaide Fringe Festival, Adelaide University, 7 March 2019.
Page 36	Texts	Lombok Treaty (Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation 2006, entered into Force on 7 February 2008, at <a href="http://www.austlii.edu.au/au/other/dfat/treaties/2008/3.html">http://www.austlii.edu.au/au/other/dfat/treaties/2008/3.html</a> CULLEY Annette (2016) (details at p23).
Page 37	Text	RUMBIK Jacob (2001) <i>West Papua’s Right to Self-determination</i> Adelaide Festival of Ideas 2001 (details at 25). <i>Frans Kaisepo, the man behind the name ‘Irian’</i> , online at <a href="https://onwestpapua.com/frans-kaisiepo-man-behind-name-irian/">https://onwestpapua.com/frans-kaisiepo-man-behind-name-irian/</a>
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