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SESSION ON STATE AND ENVIRONMENTAL VIOLENCE IN WEST PAPUA

Preliminary Statement

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TABLE OF CONTENTS

1. The procedures and framework	p. 3
2. Acknowledgment of the contribution of testimonies and communities	p. 4
3. Responses to the indictment's charges	p. 4
4. Considerations regarding the role of the international community	p. 14
5. To the people of West Papua	p. 15

Annexes

Panel of judges: brief biographical details	p. 16
Indictment	p. 18
Program of the public hearings	p. 32

1. Procedures and framework

The Permanent Peoples' Tribunal (PPT) is an international organization established in 1979 to examine and pronounce independent judgements on the severe violations of human and peoples' rights which do not find a space of visibility and qualification in the established courts of international law (see www.permanentpeopletribunal.org for its Statutes, which respond to the rigorous juridical terms of reference of international law, and for documentation on its activities in more than 50 deliberations).

The request which led to the public hearings held at Queen Mary University of London, from 27th to 29th June 2024, was put forward by the Centre for Climate Crime and Climate Justice and a network of international and Indonesian human and environmental rights' organizations and associations.

Following the procedures outlined in the PPT Statutes, the indictment went through a careful instruction phase, considered consistent with the competences and the well-established doctrine of the PPT, and was assumed as a priority and inserted into the formal program. Impressive written and audiovisual documentation was made available in advance to the members of the international panel of judges.

The Government of Indonesia was duly informed of the indictment and of its right to a defense with a certified notification on 22nd May 2024, confirmed with a hand delivery to the Embassy in Rome on 17th June 2024.

The testimonies and reports have been presented and discussed, in person and remotely, over two and half days of public hearings, to a panel of judges composed of, in alphabetical order: Teresa Almeida Cravo (Portugal), Donna Andrews (South Africa), Daniel Feierstein (Argentina), Marina Forti (Italy), Larry Lohmann (UK), Nello Rossi (Italy) and Solomon Yeo (Solomon Island).

The role of prosecutors has been assumed by Silvia Csevar (The Netherlands), Leo Lijie (Indonesia), Yohanis Mambrasar (Indonesia), Fadjar Schouten-Korwa (The Netherlands) and David Whyte (UK).

In line with the PPT Statutes, in the absence of any response from the Indonesian Government, an *ex officio* defense has been presented at the conclusion of the hearings through a careful review of specific official statements of the Indonesian Government on the matters considered in the indictment.

In addition to its specific importance in making more visible a tragic situation which has been substantially marginalized in official public discourse and political action, the case considered in this session of the PPT must be seen as a distillation of some of the most critical challenges which over the last decades have increasingly confronted the international order of States, revealing its incapacity and unwillingness to recognise and respond to the fundamental right of peoples to existence and self-determination. West Papua represents an exemplary case of

the prolongation, against all the evidence of non-legitimacy, of a colonial world where the very existence of historically and culturally independent peoples is denied, and their identities, values, cultures structurally ignored and violated with impunity. Without any form of consent, peoples are being transformed under current forms of colonialism from subjects into nobodies, deprived of autonomy in scenarios in which an increasingly tight alliance between State and national and international corporate interests is an absolute protagonist. The contractual and strategic needs of development are becoming exempt from any considerations of legitimacy and human values. The most fundamental and comprehensive components of the life of peoples and the land with all its resources is becoming the first target of policies that are furthering, with the silent complicity the international community, the forced obliteration of peoples and their subjecthood.

2. Acknowledgment of the contribution of testimonies and communities

The materials provided to this Tribunal, and most especially the testimonies we have heard in the last days, paint a picture of human and environmental catastrophe to which no one should be indifferent. The information provided to the Tribunal traces what can be characterised as a devastating attack on West Papuan lives and livelihoods.

We would like first to express our gratitude for the impressive work and bravery of the West Papuan peoples, communities and organizations who have historically and continuously been documenting their situation and attempting to make known to the world the predatory occupation and exploitation of West Papua. We are aware of the extreme risk the witnesses have exposed themselves to in all phases of the preparation and realisation of this session. We are immensely thankful for the trust placed in the Tribunal.

It is with great humility that we read and listened to the testimonies and painful stories of immense degradation, devastation and impunity. We are also very aware of the difficulties of West Papuan witnesses in trying to communicate in a language that is not their own (Bahasa), then waiting for translations into yet another language (English), which, in turn, is not the native language of most of the judges. The judges have endeavoured to do their best and hope to have understood something of the nature and depth of the different claims being made by the Papuan peoples, whose courage and commitment is truly inspiring.

3. Responses to the charges of the indictment

The Tribunal was asked to deliberate on four charges levied against the Indonesian government, as well as foreign actors, and lastly to comment on the role of the international community, in particular the United Nations (UN). At this point, the Tribunal would like to make the following remarks:

Charge 1: Land grabbing

After hearing the evidence, does the Tribunal consider that the Indonesian State has taken the ancestral land of the Indigenous Papuan People against their will using racial discrimination and leading to the loss of culture, traditions and Indigenous knowledge?

The Indonesian State defends itself against the accusation of “taking the ancestral land of the Indigenous Papua against their will” by claiming that it has introduced customary land laws into its legal system. At the same time, however, it claims unlimited sovereignty over its entire territory, including West Papua.

In reality, in its forcible land acquisitions for both public settlements and private initiatives, the State of Indonesia is violently altering West Papuans’ ancestral relationship with their land and rainforest.

This relationship is governed by customary laws that cannot be violated with impunity without causing serious harm to the people and the environment and without presenting the risk that land-use initiatives will do more harm than good.

The relationship of West Papuans with land, waters and forests is reflected in a form of collective and undivided ownership of the local communities that prioritizes the fulfillment of their own needs in an environmentally-friendly manner.

This reality implies that when the State wants to use land for purposes unrelated to the resident community, it should follow an essentially political procedure of consultation and verification of consent.

Unilateral and authoritarian State interventions cannot but provoke vibrant protests and reactions, even violent ones, from populations that see their relationship with the land of their ancestors denied and destroyed.

In fact, all of the witnesses heard by the Tribunal complained that – as a result of the land-use policies pursued by the Indonesian State and transnational corporations and the accompanying massive deployment of military and police forces – their communities have suffered painful dispossession and that they themselves, as members of the community, have been deprived of elementary freedoms, such as that of movement, and deprived as well of economic rights, first and foremost that to their homes.

In place of counterproductive and harmful State violence, effective respect for customary laws must be instituted, and must accompany every new economic initiative, extractive or industrial.

As suggested by field studies and confirmed in testimonies before the Tribunal, the system of prior consultation of the populations concerned, acquisition and verification of their informed consent is currently manipulated by the State of Indonesia to achieve its own purpose

and fails to guarantee any respect for the special relationship, economic but also spiritual, between West Papuan populations and their environments.

Emphasising the Indonesian State's systematic violation of customary land laws (its claims of respect are pure hypocrisy) is important because the Tribunal does not want to, and cannot, limit itself to assessing violations of international law in West Papua. The Tribunal is also obligated to consider mechanisms of discrimination against the inhabitants of West Papua, including multiple manifestations of racism, attempts to deny and erase its culture, and more generally the cruel and repressive behaviour that is the subject of the second charge.

Equally important for the Tribunal to consider is the fact that – in carrying out the process of exploitation of the region's great resources – the Indonesian government and transnational corporations systematically ignore and erase the interests and aspirations of the original inhabitants of the area, and constantly violate the customary norms that for centuries have regulated the relationship of the natives with nature, the environment and the use of resources. This fact was amply confirmed by the testimonies of scholars heard by the Tribunal, the documents and studies it reviewed, and also from the living voices of the people that it listened to.

In the public hearings, inhabitants of far-flung areas of West Papua vividly represented their difficult and often dramatic plight. They helped lift the veil that conceals from the eyes of the international public and from many among the Indonesian people themselves the multiple violations of customary laws and norms of international law that are daily perpetrated against the people of West Papua.

Ultimately, the task of the Tribunal is to establish the truth about the criminal events in West Papua and the repression taking place there, but also to clarify and to reaffirm their inalienable rights to land and the environment.

Charge 2: The shadow of fear

After hearing the evidence, does the Tribunal consider that the Indonesian State is accused of violent repression, including unlawful detention, extra-judicial killing, and population displacement in West Papua as a means of furthering industrial development?

The report prepared by the *ex-officio* defense states, on the one hand, that Indonesia “deals with all allegations of human rights violations and criminal actions by state personnel appropriately”. On the other hand, it states (e.g.) that it has been “forced to deal with terrorist groups in Kiwirok” and that “military operations, including any searches of villages or air raids, are proportionate and are part of expanded operations to eradicate the OPM and protect the civilian population”.

However, when operations claimed to “protect civilian populations” only produce more victims, this argument becomes nonsense. The different reports, testimonies and documentation received by this Tribunal do not support the Defense’s allegation.

A better summary of the current situation in West Papua regarding human rights violations is a phrase of a testimony presented during the second day of the proceedings by one of the witnesses: “We live in the shadow of fear”. That is a situation created by the Indonesian Government in West Papua over the last decades. That “shadow of fear” has been constructed via State crimes (killings, torture, ill-treatment, unlawful detention, forced displacement and the suppression of political rights) as well as grants of impunity for the perpetrators of those crimes. The report of Human Rights Monitor presented before this Tribunal on 18th June 2024 demonstrates that “Impunity is rampant in West Papua [...]. Perpetrators are not held accountable in public trials. Accordingly, the court processes, particularly police internal disciplinary procedures, lack transparency and independence. Moreover, neither military tribunals nor police internal procedures meet the victim’s right to compensation, restitution and rehabilitation”. The same conclusions are part of the report presented by Tapol before this Tribunal in its paragraph about “impunity and lack of effective human rights accountability”.

More generally, the judicial system of the Indonesian State, which appears both inefficient and repressive, deserves critical consideration. On the one hand, in fact, the judicial system is not able to guarantee incisive and independent investigations into most of the serious crimes committed against the people of West Papua. On the other hand, as was presented in several testimonies and documents, that same judicial system brings serious treason charges against participants in peaceful protest demonstrations.

Regarding only the last few years, most of the reports presented in this PPT session give a clear picture of continued and systematic attacks on the West Papuan population. The report of Amnesty International (produced in May 2024) documented at least 131 victims of unlawful killings only between January 2018 and March 2024. Human Rights Monitor documented that, as of 16th June 2024, a total of 79.319 individuals, mostly Indigenous Papuans, remain internally displaced across the region. Many of those internally displaced persons (IDPs) have been living in a state of limbo without access to proper health services since early 2019 and the Papuan Human Rights Groups documented the deaths of 196 IDPs due to conditions during displacement. Human Rights Monitor concludes that the “use of torture and other cruel, inhuman or degrading treatment or punishment remain widespread practices among the police and military in West Papua”.

Various massacres were mentioned in the proceedings and the documentation received, including those that occurred in Biak (6 July 1998), Abepura (7 December 2000) and Waimena (February 2023), among others.

Amnesty International also notes the ongoing suppression of peaceful political expression, including the blanket prohibition of peaceful protests and the threat of arrest and persecution under the treason (*makar*) provisions of the law (mainly articles 106 and 110 of the Criminal Code, KUHP). The report presented by Tapol documented 245 new political prisoners only from the beginning of 2019 until September 2020. Some 109 of those prisoners were

charged with “treason” offenses. In the same report it is mentioned that 72% of these arrests occurred merely because of the raising or displaying of the Morning Star flag. Different testimonies during the proceedings produced further evidence of this kind of persecution: not only imprisonment but also abuse and torture of prisoners. Amnesty International documented at least 96 people arrested for exercising their rights to freedom expression or peaceful assembly.

The Report by Human Rights Monitor of June 2024 documented that crimes against humanity were committed by the Indonesian security forces as part of April 2023 raids in Intan Jaya, in which at least 60 indigenous Papuans suffered extrajudicial killings.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has received reports of allegations of unlawful killings, enforced disappearances, torture and inhuman treatment and forced displacement of at least 5.000 Indigenous Papuans by the Indonesian security forces merely between April and November 2021, amid a heavy security presence and ongoing armed clashes.

Other witnesses and reports have analyzed the different types of stigmatization suffered by West Papuans, from the racist dehumanization as “primitive” or “monkeys” to their current categorizations as “separatists” or “terrorists”. All these different stigmas have been used not only as a form of dehumanization that acts to further the commission of various crimes by the State, but also as a way to create an atmosphere of alienation between Papuan and non-Papuan populations.

These are the clear contours of the “shadow of fear” which is darkening the life of West Papuans. It is evident that the different reports and testimonies presented before this Tribunal constitute only the visible peak of the iceberg of State crimes committed in the region as a means for furthering industrial development. This state of affairs clearly deserves further investigation by different national and international bodies and urgent interventions in order to stop the suffering of the people and bring justice to the region.

Charge 3: A system of ecological degradation and peoples’ obliteration

After hearing the evidence, does the Tribunal consider that the Indonesian State has organised environmental degradation, including the destruction of eco-systems, contamination of land, the poisoning of rivers and their tributaries and of providing the permits, concessions and legal structure of non-compliance for national and foreign companies to invest in West Papua in a way that encourages environmental degradation?

The Indonesian State and military, aided and urged on by several non-Indonesian States such as those of the US, Australia, the UK, the Netherlands and Denmark, among others, has indeed, as the charge puts forward, organised what in elite modern European conceptual frameworks is called “environmental degradation” via a regime of terror; militarization; legal impunity; surveillance; restrictions on the conduct of human life and livelihood as well as on exchanges of thought and information; and the murder, torture and psychological devastation of

Papuan peoples. All this has occurred, to state only a few instances, at Grasberg, Merauke, Intan Jaya, Maybrat, Kalgilit, Genyem, Degeuwo and others.

In addition, the regime just described does indeed, as the charge notes, support the interests of foreign and national companies that invest in West Papua for purposes of the cheap, relatively unfettered extraction and export of oil, gas, gold and copper from its mountains and coastal regions, and of palm oil, sugar and other plantation crops from its soils as well as timber from its forests. It is true, as well, as the testimony to this Tribunal shows, that these projects and the infrastructure associated with them have resulted in, among other things, deforestation, loss of drinkable water, loss of subsistence crops, loss of mountains, loss of fisheries, and the poisoning of watersheds and human bodies.

However, what has happened in these regions cannot be constrained by the term “environmental degradation”. In the view of many Papuan witnesses to this Tribunal, there is no sense in which “environmental degradation” can be disaggregated from a project tending toward the obliteration of a people, or what was called by more than one witness a “slow genocide”. It is not that the poisoning of lands, waters, plant life and human bodies testified to by the witnesses is “accompanied by” racism, that the racism experienced every day by Papuans is a mere “instrument of control and manipulation of nature”, or that industrial extraction of the type currently being experienced by Papuans could conceivably be “consented to” by them some day or be made “noncolonialist.” Rather, the deforestation and extraction is *itself* racism. It is *itself*, despite the assertions of the Indonesian State, the very apotheosis of a colonial project that has been hundreds of years in the making.

It was evident throughout the testimonies presented to this Tribunal that the ways Papuans are being excluded from their communal territories, while those territories are in turn being excluded from them, itself amounts to the obliteration of the Papuan people as they define themselves together with land, plants, fish and other living things. As witnesses put it, a community’s mountain or forest can be a mother and its streams mother’s milk. Anyone who plants a tree must think beforehand about the local soils and waters that will nourish it throughout its life.

When the very freedom of movement across an ancestral territory is restricted, when Indonesian military officials demand of its residents, “Who are you? Where are you going?” as they try to walk to their gardens or rivers, the territory itself ceases to exist as well as the spirit of its inhabitants. The everyday acts of publicly or officially characterizing Papuans as “primitive”, “monkeys”, or in need of genetic engineering cannot be separated from equally widespread acts of denigrating their agriculture and common lands in formally similar terms. When Papuans are transformed into “internally displaced persons” and their former homes converted into military posts, the process is indistinguishable from that by which lands that had supported sago palm, chickens, pigs and fish are transformed into mines, tailing deposits, and short-lived industrial plantations of palm oil or sugar cane. In addition, where corporations and the State cannot immediately take the land, as one witness observed, “they create a conflict”, either between Papuans and non-Papuans, or among Papuans themselves, as an integral part of their seizure of resources.

The highest-return investments in what states call Papua's "raw materials" are not separable from the damage caused to a child's spirit when she sees her mother raped or tortured by a military officer on the payroll of a transnational company and trained and armed by a foreign state. When Papuan witnesses say that "we have no space to speak or live", that "every day we are trapped in a cage of racial discrimination", or that "we have no future as Indonesians", it is no accident that their metaphors are geographical and physical, because there can be no separating the conjoined acts of exclusion, dispossession and brutality being imposed on them by the Indonesian State and its foreign supporters. As one witness testified this morning, "when ecocide happens, genocide will happen". There is no "land grab" in Papua that is not also a grab of people and their ancestors and descendants, and of their knowledge, language, opportunities for dignified work, freedom, identity and spirit.

The suffocation being borne by West Papuan peoples as a part of ongoing, dramatic changes in land use occurs predominantly through three mechanisms: (1) deliberate and active deforestation for palm-oil plantations and agribusiness; (2) profit-driven mining of gold and copper, extraction and liquification of natural gas, and (3) recent food estates projects.

Forests, one location of this racial violence, cover 78% of the total land area of West Papua and are a critical lifeforce of Papuan past, present and future generations. The degradation and destruction of the West Papua forest is a piercing of the lungs, hearts, and spirit of numerous tribes and local Indigenous communities.

Oil-palm plantations are the primary cause of deforestation cited in the testimonies. Noting that the rate of deforestation in the region has dramatically increased from 60,300 hectares per year between 2002-2021 to 189,300 hectares per year between 2013-2017. This is especially alarming given that the forests are key to climate mitigation. This tripling indicates the acceleration of deforestation but simultaneously points to: (i) forced displacement, loss of land and community; (ii) disruption and damaging of ecosystems and loss of biodiversity; (iii) the undermining of food systems and food sovereignty, which jeopardize particular cultural and identity practices of the local peoples and in so doing severely compromises food sources such as sago palm and *matoa* fruit trees, which hold sacred value and meaning for Papuans; (iv) deleterious changes in livelihoods and social relations embedded in the forest; (v) the creation of a cheap, degraded and disrespected labour force, and (vi) increases in the vulnerability and precarity in the status of Papuan women, who are attached to the land through their farming and forest harvesting practices.

Mining operations and extractivism were cited as the cause of large-scale environmental degradation with specific reference to water contamination, mining waste and accumulations of tailings. The result has been "ecological damage to local rivers and consequently loss in fisheries and sago stands". Testimony was also given about the effects of the huge volumes of dirty gas being emitted without any curtailment or recourse for those affected. One company was revealed as "releasing 4.7 million tons of CO₂ directly into the earth's atmosphere every year".

The degree of ecological and social damage aside, the extractive industries so widespread in West Papua have by no means improved the lives of local communities. Community members testified repeatedly that they have no reliable, decent, free or adequate-quality health care,

education or social services. At the same time, the previous supports of their well-being are being cut from under them as a result of the severing of their collective and harmonious connections to their land and forest. The result is the ill health both of themselves and of the lands of which they have been custodians since time immemorial.

Official State discourse holds that the processes afoot are for national development and national security and are key to the advancement of Papuan peoples themselves. However, the State conceptualizes this advancement as the development of putatively “backward, primitive and forest dependent peoples into civilized, modern and progressive citizens and subjects of the Indonesian nation state.” The Tribunal heard that “the state does not care about us; they only want our land and forests ... We don’t feel like our land belongs to us anymore ... We are discriminated against because of our dark skin and curly hair”.

Charge 4: Collusion

After hearing the evidence, does the Tribunal consider that the Indonesian state is colluding with national and foreign companies to cause environmental degradation, population displacement and sustain violent repression in West Papua?

Based on the testimonies submitted before the Tribunal, it can be concluded that the State of Indonesia and national and foreign companies – including, among others, Unilever, British Petroleum (BP), Niche Jungle, Jardine, Freeport McMoRan, Mitsubishi Corporation and CNOOC – share with the Indonesian military (TNI) a strong interest in the natural resources and agricultural potential of West Papuan ancestral lands.

The Tribunal learned that the TNI in particular has a strong economic interest in extractive and agricultural businesses. Partly in order to protect the economic benefits it receives, witnesses testified, the TNI has become instrumental in the protection of State and corporate interests in a way that involves repression against those who stand in the way of business as usual.

According to the Indonesian State, corporate extraction of resources and use of land in West Papua is conducted with the intention of achieving the progressive economic development and improvement of the overall standard of life for Indonesian citizens, especially those living in West Papua.

In addition, according to testimony, the State has enacted several laws and regulations for the purpose of maintaining environmental balance, preventing discrimination, and safeguarding the traditional rights of societies governed by customary law. These include, among others, the Basic Agrarian Law No. 5/1960, the MPR Decree on Agrarian Reform No. X/2000, the Act on Management of the Coastal Zone and Small Islands No. 27/2007, the Act on the Environment No. 32/2010 and Government Regulation No. 23/2021. The State also endorses the Universal Declaration on the Rights of Indigenous Peoples, while Indonesia’s Constitutional Court has

made three landmark rulings recognizing customary law communities' collective rights to customary or *adat* lands and forests.

However, the Tribunal learned that the actions and activities of private corporations and the State in pursuit of their interests are failing to adequately meet their legal and ethical obligations to West Papuans and their environment as set out by the State's national laws and regulations as well as international treaty obligation.

On the contrary, according to accusations heard by the Tribunal, the State and the corporations that it protects are cognizant that their actions and operations are resulting in environmental degradation, population displacement, and sustained violent repression in West Papua.

The Tribunal finds that State and corporate powers repeatedly follow a highly-controversial pattern of actions in numerous places in West Papua to achieve their goals. This pattern appears to consist of three phases:

Phase one: False promises

The State and the corporations with which it is allied promote their operations in West Papua as a way of alleviating poverty and raising overall living standards. Corporations have also made promises to provide infrastructure development to West Papuan land rights holders.

However, instead of delivering on their promises, corporations and the State have fundamentally eroded the traditional Melanesian way of life of the West Papuans by irreparably destroying their environment and cultures. In many cases, logging permits appear to be the first step allowing corporations access to West Papuan lands. Numerous witnesses have testified that corporations do not act in compliance with the permits or otherwise act illegally.

According to a report delivered by one resource witness, BP (the company formerly known as British Petroleum) knowingly provided misleading information to its stakeholders about its liquid natural gas operations in Tangguh, Bintuni Bay. BP attempted to secure shareholders' confidence by assuring them that its operations there were carried out equitably. But, as detailed below, this was very far from the truth.

Despite State and corporate promises, moreover, the Tribunal finds that the free prior informed consent of West Papuans over extractive and agricultural activities on their lands has as a rule not been obtained. Decisions appear to have been taken by the State and corporations in the absence of the voice of West Papuan traditional land-rights holders. In the words of one witness, 'the decisions are made in Jakarta, not in West Papua.'

Women and children have often failed to take part in the decision-making of, for example, logging concessions, yet are the ones who are facing the brunt of the consequences, present and future.

Phase two: Entry and control

The Tribunal was made aware of growing militarization in the provinces of West Papua. Testimonies have described a nexus linking corporations and the government that improves access and attempts to secure total control over resource-rich West Papuan territories.

The intervention and continued presence of the TNI and other state apparatuses has resulted in mass displacements of West Papuan populations. The Tribunal has learned of West Papuans who have had to live in embarrassing and degrading conditions in forests outside their communities, or pursue discounted lives in nearby villages or provinces. Under these circumstances, the Tribunal finds, West Papuans, especially women and children, are significantly at risk of being arbitrarily deprived of the right to life, the rights to be free from sexual violence and malnutrition, and other basic human rights.

The testimonies that the Tribunal has heard indicate that these acts of violence are purposely carried out by the State and the TNI to create a climate of fear, to control and subjugate local populations, and to prevent them from questioning corporate operations or organizing to defend their rights.

The Tribunal has learned that in this inhumane environment, corporations have been able to operate in immunity and beyond safe ecological thresholds in a way that ultimately compromises the ecological and social well-being not only of the region but of the planet at large.

In addition, to enable corporate access to more territories, and to divide peoples from one another, the State has recently multiplied the number of provinces in the region.

Phase three: Monitoring and repression

It has come to the attention of the Tribunal that once corporations are established on West Papuan territory and their operations underway, the TNI personnel and other state apparatuses on site continue to monitor the situation to ensure there are no disturbances. If resistance emerges, it tends to be met with sustained repression until such time as it is neutralized.

For instance, in Wasior, the military operation known as Sweep and Crush resulted in the murder and mutilation of numerous innocent West Papuans, notably Wellem Korwam. This followed the murder, allegedly arranged by State provocateurs themselves, of five police officers associated with the BP Tangguh LNG in Bintuni Bay.

5. Considerations regarding the role of the international community

After reading the materials and hearing all the testimonies, the Tribunal finds it incontestable that the situation is very urgent. For six decades, the mindset of settler neocolonialism together with its concrete practices have led to a severe deterioration of the lives of West Papuans that has become overwhelming in recent years. The international community is therefore called upon to heed to their long-standing pleas.

The United Nations, in particular, has been involved in the fate of West Papuans from the beginning. In past decades, it has emphasised gross human rights violations in its reports, and its experts have borne witness to appalling violence and abuses of power in the form of unlawful arrests, torture, disappearances and extrajudicial killings as well as militarisation, land grabbing, mass displacement, and the destruction of eco-systems and cultural heritage. The calls for rigorous, impartial and independent investigations into the violent repression of West Papuans, its causes and consequences, at the hands of the Indonesian State and the multinational corporations it enables, need to be heard widely and to produce concrete results. The Tribunal considers it imperative that a sizable UN investigation, with a broad mandate, is carried out as soon as possible and that the UN Human Rights Council discusses past and current violations committed against West Papuan Indigenous communities, as well as possible forms of accountability and reparation.

Immediate and unimpeded humanitarian access also needs to be granted in order to address the current situation of food insecurity of West Papuans, in particular those displaced by violence from their homes and lands.

The UN High Commission for Refugees needs to investigate allegations of forced return of internally displaced people to areas where they do not feel safe, and where the conditions to carry out a decent living – from access to food and health to education and jobs – have not been assured.

Furthermore, the risk of exploitation of child labour in palm oil plantations, which is known to be a problem for the whole of Indonesia, cannot be underestimated. UNICEF has, therefore, a very necessary role to play, in both investigating the situation and preventing further harm to the younger generation of West Papuans, who are particularly vulnerable to these predatory practices.

The extractivist industry has been linked to many human rights abuses, being directly implicated in violence perpetrated against Indigenous communities. Its specific responsibility over the harm caused to people, lands and resources needs to be investigated.

Many of the corporations involved in the abuses accounts of which this Tribunal has heard have their headquarters in Western countries. The Tribunal has also read and heard testimonies which connect Western states' training of Indonesian security forces, many of which are deployed to West Papua and are responsible for human rights violations there. These trainings often come under the misleading label of "counter-terrorism." The Tribunal therefore finds that not only the Indonesian State, but also the States where these companies are based, need to be brought under

increased international scrutiny, and their roles uncovered in enabling the abuses to which the witnesses to this Tribunal have testified. Every country that has been shown to be complicit with the devastation suffered by West Papuans, through the activities of their companies or through their connections to the Indonesian state, should be named and engaged in a process of inquiry that ultimately determines their degree of involvement and the level of reparations called for. This includes the US, but also the UK, where this Tribunal was held.

6. To the people of West Papua

National and international public opinion must be won over to the cause of the West Papuan people. The Peoples' Permanent Tribunal has a role to play here, as an instrument of resistance to oppression and affirmation of rights and justice. It is a space for people to speak out and join together to weave and strengthen solidarity. The judges are convinced that the joint effort put into the realisation of this session will offer new visibility and, we hope, more opportunities to connect with other organisations and peoples.

We would like to thank the witnesses and the prosecution very much for their commitment and dedication, but also for their strength and hope for the future. As judges, we come away from this session appalled by the level of destruction that West Papua and West Papuans have endured. Yet, despite all the pain and devastation, we leave strengthened by the dignified and militant way West Papuans have conducted themselves at the forefront of opposition to those who want to destroy their lives and livelihoods. For this, everyone, not only from the West Papuan community, but also from the international community, should be forever grateful and feel a duty to support. As judges, we have listened to this testimony in awareness of the urgency with which it deserves to be treated, and also with enormous admiration for what West Papuans have done and are doing to protect their sacred land and culture.

Annex 1

Panel of judges: brief biographical details

In alphabetical order:

Teresa Almeida Cravo (Portugal)

She is an Associate Professor in International Relations at the Faculty of Economics and a Researcher at the Centre for Social Studies, both at the University of Coimbra, in Portugal. She's currently the coordinator of its PhD Programme in International Relations - International Politics and Conflict Resolution. She holds a PhD in Politics and International Studies from the University of Cambridge. In the last years, Teresa was an Academic Visitor at the African Studies Centre of the University of Oxford, at the University of Westminster, in London, at Monash University in Melbourne, and an Associate of the Belfer Center for Science and International Affairs, at the Harvard Kennedy School of Government. Her research interests include critical perspectives on peace and violence, security, development, global interventionism and foreign policy, particularly within the context of Portuguese-speaking countries.

Donna Andrews (South Africa)

She is scholar-activist and feminist theorist with longstanding history of solidarity work. Her recent work examines the political economy of food in the context of social subjects' relations to nature, planetary solidarities, feminist agency, just transitions and the commons. She is a Senior Researcher at the Ethics Lab, Neuroscience Institute, University of Cape Town. Trained in political economy and political theory, she holds an MA in International Political Economy and Development (ISS, Institute of Social Studies, The Hague) and a PhD in Political Theory - Capitalism and nature in South Africa: racial dispossession, liberation ideology and ecological crisis - from the University of Cape Town.

Daniel Feierstein (Argentina)

He is a researcher at CONICET (National Council for Scientific and Technical Research) based at the Universidad Nacional de Tres de Febrero (Third of February National University), Argentina, where he founded and runs the Centre for Genocide Studies. He holds a chair in the School of Social Sciences at the Buenos Aires University, where he runs the "Analysis of Genocidal Social Practices" seminar and the Observatory of State Crimes. He is the former President of the International Association of Genocide Scholars (IAGS, 2013-2015).

Marina Forti (Italy)

She is a journalist and writer based in Rome. For three decades she has been with the daily newspaper "*il manifesto*", serving as Foreign Editor and Foreign Correspondent; she reported mainly from Iran, South Asia and Southeast Asia. Her column "TerraTerra" on environmental justice was awarded the prize known as *Premiolino* (1999). She is the author of *La signora di Narmada* (Feltrinelli 2004, Elsa Morante Prize for Communication 2004) and *Il cuore di tenebra dell'India* (Bruno Mondadori 2012) on the social conflicts in rural India. Her latest book

is *Malaterra. Come hanno avvelenato l'Italia* (Laterza, 2018). She contributes to *Internazionale*, *Altreconomia* and other.

Larry Lohmann (UK)

He is an activist and writer who works with the Corner House, a research and solidarity NGO in the UK that supports democratic and community movements for environmental and social justice. Lohmann has contributed to numerous scholarly books and journals on land and forest conflicts, globalization, artificial intelligence, energy politics, labour, Southeast Asian environmental movements, racism, commons, climate change, ecosystem service markets, literary criticism and the discourses of development, population and economics. He is a founding member of the Durban Group for Climate Justice and chair of the advisory board of the World Rainforest Movement.

Nello Rossi (Italy)

Nello Rossi is currently the editorial director of the legal journal "Questione Giustizia" under the auspices of Magistratura Democratica. He was Solicitor General at the Supreme Court of Cassation, Italy, from 2015 to 2017. From 2007 until 2015 he was the Chief Public Prosecutor's Deputy in Rome, coordinator of the departments specialised in economic and financial crimes and computer crimes. From 2002 to 2007 he was a Justice at the Court of Cassation, in the criminal division of the Court. Until 2016 he was also the Ministry of Justice delegate to the Financial Action Task Force on money laundering (FATF) set up by the OECD. He is also the author of books, essays and legal articles on issues of constitutional and criminal law. He was a member of the steering committee of the Superior School of the Judiciary from 2017 to 2020. He is vice-president of the Permanent Peoples' Tribunal.

Solomon Yeo (Solomon Islands)

He is a human rights lawyer born and raised on the island of Guadalcanal, Solomon Islands. He is dedicating his life to addressing the numerous issues that persist within the Pacific, notably climate injustice, decolonization, and the politics of development. He works with Pacific communities, civil society organizations, and governments, mainly in the areas of climate change, decolonization, conservation, and community development. He has graduated from the University of the South Pacific and University of Hawai'i at Manoa with a BA/LLB and LL.M.

Annex 2

Indictment

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

CHARGES

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

AND

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

AND

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

AND

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

Table of Contents

- I. PREAMBLE

- II. SUBJECT OF THE CHARGES

- III. SUBSTANCE OF THE CHARGES

- IV. THE TRIBUNAL

- V. SIGNATORIES

I. PREAMBLE

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

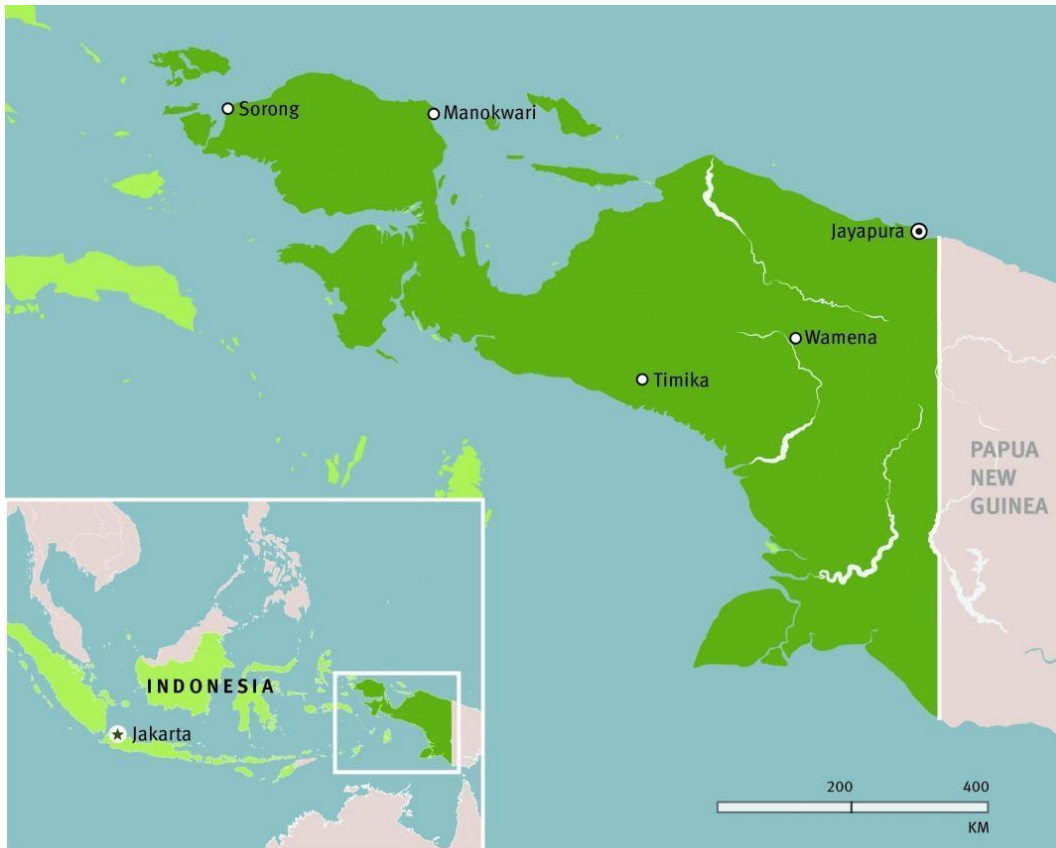


Figure 1: The territory of West Papua

The territory of West Papua refers to the Western half of the island of New Guinea, partitioned as a result of European colonial settlement. West Papuans, an Indigenous Melanesian people, have been engaged in a struggle for their right to self-determination since colonisation by the Netherlands in 1898. Just like the Amazon, this area of critical value to the sustainability of the planet is now under threat from extractive industries and the many Indigenous tribes find their ways of life increasingly violently disrupted.

In 1962, the basis for a new constitutional government of West Papua was provided for by the New York Agreement, a pact signed by the Netherlands and Indonesia at the headquarters of the United Nations. This document transferred administrative control of West Papua to a UN Temporary Executive Authority and subsequently to Indonesia with the provision that a vote for self-determination would follow soon afterwards. This vote eventually took place in 1969, and was called the Act of Free Choice, though to West Papuans it is commonly referred to as the Act of No Choice. In this process, the Indonesian government presided over a delegate system in which delegations amounting to 1,024 individuals – less than 1 per cent of the population were actually included in the vote. The unanimous “yes” vote was noted – though not accepted - by the UN. There were widespread accounts of bribery and intimidation with the threat of physical violence and some still refer to it as the “gunpoint referendum”.

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

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

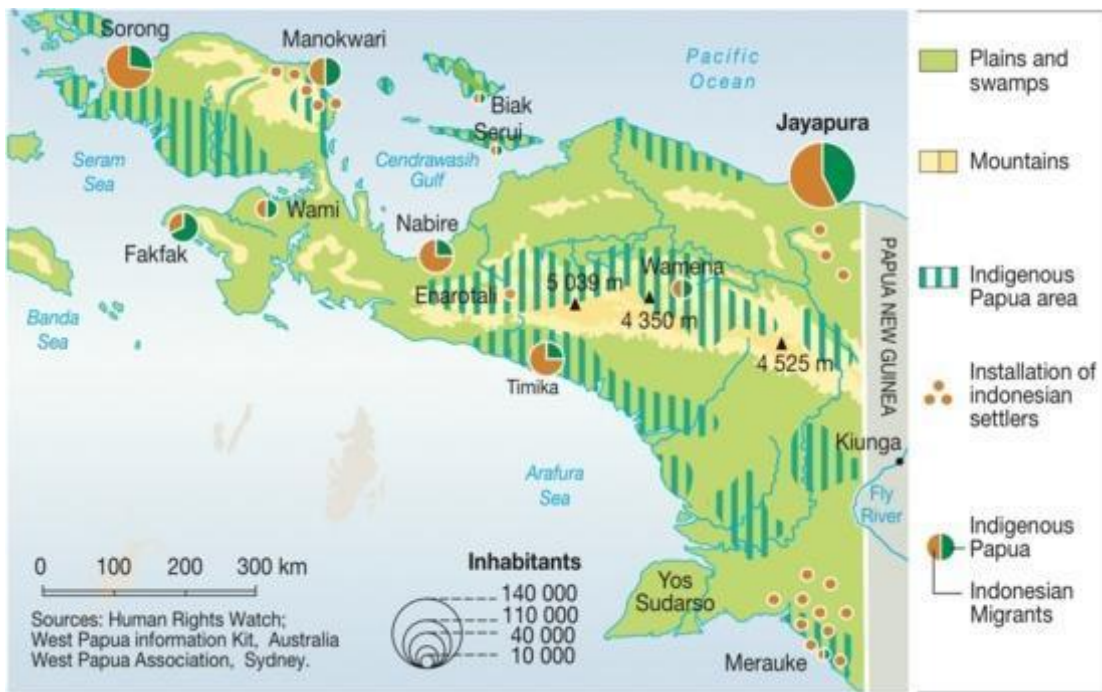


Figure 2: Transmigration in West Papua

Today, the urban centres and coastal towns of West Papua are dominated by Indonesians who moved there with the promise of economic opportunities through tourism, mining and logging. In stark contrast, some of the highest poverty levels in Indonesia are in the highlands

and rural areas of West Papua where the increasingly disenfranchised and internally displaced peoples have been forcibly concentrated.

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

While the Indonesian government argues that economic growth in the region will produce jobs and increase quality of life, the Melanesian communities in West Papua have disputed such claims, and have testified to the deleterious impact that industrial development is having on vital life systems, biodiversity, as well as attacking their customs and ways of life. In the current context, the diverse tribes of West Papua are facing what has been referred to as a ‘cold genocide’ with the loss of culture, traditions, Indigenous knowledge as well as the ‘rewriting’ of history that subsumes them into the Indonesian national narrative.

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

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

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

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

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

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

Mass displacement from ancestral and communal lands disrupts Indigenous livelihoods, exacerbates food insecurity, undermines tenure security, and dramatically reduces access to land. Reduced land access also affects the enjoyment of cultural rights, including a customary relationship to land. In this respect, we recognise that whilst many of the charges set out here relate to offences that are unambiguously counter to the fundamental rights of people, customary rights, including the relationship between industrial development and the customary relationship with the land and with nature is not set out well in international legal standards.

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

II. SUBJECT OF THE CHARGES

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

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

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

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

Whereas several previous sessions of the PPT have focused on the judicial void regarding the role of states and transnational corporations in the destruction of the lives and livelihoods of local and Indigenous populations, including: tribunal 49. 'In defense of the Cerrado territories' (2021-2022); Tribunal 40. 'Canadian mining transnational corporations'

(2014); Tribunal 35. 'Transnational corporations and the rights of peoples in Colombia' (2006-2008) and 33. 'The European Union and transnational corporations in Latin America: policies, instruments and actors complicity in the violation of peoples' rights' (May 2010).

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

AND

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

Whereas industrial development in many parts of the world has compromised the customary ways of life, the ability to promote democratic social, political and economic forms of organisation and involves violations of the human, social, cultural and economic rights of peoples that have important impacts on communities, territories and the environment;

Whereas industrial development in West Papua has had precisely those consequences for local populations who have suffered a violent conflagration of state violence and the destruction of their ability to live and to survive in their ancestral land;

Whereas Indonesia establishes the regulatory and military infrastructures that deliver this form of industrial development;

Whereas repression by the Indonesian state specifically targets West Papuan culture and political aspirations, and promotes racist tropes;

Whereas repression and environmental destruction proceeds with the direct involvement of numerous Indonesian corporations and transnational corporations, including companies headquartered in the US, China, Malaysia, Singapore, Britain and other European states;

Whereas major obstacles exist in Indonesian West Papua for affected communities to seek justice at regional, national and international levels, which promotes the impunity of the parties cited in the charges above;

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

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

Having said this, we recognise at the same time that the subject of this indictment cuts across a large number of breaches of fundamental rights in international law. The relevant sources of those rights are, in particular, the Universal Declaration of Human Rights (1948), the Freedom of Association and Protection of the Right to Organise Convention (Convention 87) of the International Labour Organization (1948), the International Covenant on Civil and Political Rights (1966); the International Covenant on Economic, Social and Cultural Rights (1966), the Stockholm Declaration on the Environment (1972), the Universal Declaration of the Rights of Peoples (Algiers, 1976), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Indigenous and Tribal Peoples’ Convention (Convention 169) of the International Labour Organization (1989), The Universal Declaration of the Collective Rights of Peoples (Barcelona, 1990), the Rio Declaration on the Environment and Development (1992), the UN Guiding Principles on Internal Displacement (1998), the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998), the International Convention for the Protection of All Persons from Enforced Disappearance (2006), and the Declaration of the United Nations on the Rights of Indigenous Peoples (2007) (UNDRIP).

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

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

III. SUBSTANCE OF THE CHARGES

III (i) Evidence of Indonesian state repression

Violence in West Papua has escalated since 2018. It has resulted mainly from militarisation which causes armed conflict. On the other hand, militarisation follows industrial development which in turn has exacerbated armed conflict. Between 2019 and 2021, several UN

Special Procedures' mandate holders sent communications raising concerns regarding the alleged targeting of human rights defenders in West Papua, including alleged violations of freedom of opinion and expression, and freedom of assembly and association.

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

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

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

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

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

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

Indonesian security forces are routinely deployed to suppress local community gatherings intent on discussing and mobilising action against 'development' initiatives that extract profit from West Papua's natural resources, while leaving communities more marginalised and

impoverished. These violent and repressive acts are further supported by an elaborate system of state surveillance, with activists, clergy, students, local politicians, and customary leaders often targets of intense military intelligence gathering and reporting.

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

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

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

It is also the context for local opposition to the Tangguh liquefied natural gas (LNG) facility at Bintuni Bay in the far west of West Papua, another major asset in Indonesia's extractive drive. The facility is owned by a consortium led by BP which also includes, CNOOC and Mitsubishi Corporation. According to BP, Tangguh currently produces around 20 per cent of Indonesia's natural gas. An ongoing expansion of the facility – which includes two offshore platforms and 13 new production wells – will increase the total LNG production by approximately 50 per cent. Once it is complete, it is expected to supply 35 per cent of Indonesia's gas. The field has gas reserves estimated at 800 billion cubic meters. Since the early days of production BP has been accused of “siding with the Indonesian authorities against native

Papuans who are engaged in a long struggle for independence.” Certainly, the company works closely with the same security forces that are committing human right violations and extra-judicial killings and are displacing local populations. BP relies on locally-employed Papuan security guards at the plant, however, it does at times need to call in the police and the military. BP makes payments to both for this protection. In one famous incident, John O’Reilly, then senior vice president of BP, visited the plant around the time of an attack on the Indonesian police that killed several officers. Operation ‘Sweep and Crush’, the response to the killings resulted in a situation where ‘over 140 people were detained, tortured or otherwise ill-treated’, and seven people were killed in extrajudicial killings. The Indonesian government established a new military base near Tangguh in 2006. One investigation in 2018 revealed that the private company which manages BP’s local security force is “run by retired Indonesian army and police” and that this led to “targeting peaceful social movements in Bintuni Bay.”

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

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

For West Papuans, Indonesian control and exploitation represents a systematic attempt to erase West Papuan lives and culture. Indeed, the ongoing forced separation of people from their land has been closely intertwined with influxes of non-Papuan migrants to the region, and subsequent ethnic subjugation, as well as cultural assimilation, growing poverty and food insecurity, intergenerational displacement, and the loss of livelihoods. Papuan civil society commonly refers to a ‘structural and systemic genocide’ being perpetrated through these dynamics of land alienation and the loss of food sovereignty, as well as the marginalisation of Papuans by influxes of migrant labourers. As such, popular struggles against these injustices are deeply rooted in a longstanding quest for freedom and self-preservation. They are further tied to the profound relationship that Papuans have with their natural environment, reflecting Papuan cultural dependencies and harmonious co-existence with nature that is being disrupted by the large-scale destruction of forests and assaults on Papua’s rich biodiversity.

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

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

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

Already, Indonesia’s lack of rigorous environmental assessments for new development projects has resulted in alarming rates of forest loss, placing the nation among the highest globally. Estimates indicate a staggering loss of approximately 10.2 million hectares of primary forests in Indonesia between 2002 and 2022.

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

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

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

IV. THE TRIBUNAL

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

- After hearing the evidence, does the Tribunal consider that the Indonesian state has taken the ancestral land of the Indigenous Papuan People against their will using racial discrimination and leading to the loss of culture, traditions and Indigenous knowledge?
- After hearing the evidence, does the Tribunal consider that the Indonesian state is accused of violent repression, including unlawful detention, extra-judicial killing, and population displacement in West Papua as a means of furthering industrial development?
- After hearing the evidence, does the Tribunal consider that the Indonesian state has organised environmental degradation, including the destruction of eco-systems, contamination of land, the poisoning of rivers and their tributaries and of providing the permits, concessions and legal structure of non-compliance for national and foreign companies to invest in West Papua in a way that encourages environmental degradation.
- After hearing the evidence, does the Tribunal consider that the Indonesian state is colluding with national and foreign companies to cause environmental degradation, population displacement and sustain violent repression in West Papua?
- After hearing the evidence, does the Tribunal consider that the international community and specifically the UN and its agencies must respond urgently to the situation in West Papua. How does the Tribunal consider that this response should provide relief to the people of West Papua?

V. SIGNATORIES

Prepared and submitted by the Center for Climate Crime and Climate Justice, Queen Mary University of London <https://ccccjustice.org>, on behalf of the following signatories:

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

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

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

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

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

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

London Mining Network, London <https://londonminingnetwork.org/>

And 7 other local and international civil society organisations, names withheld.

Permanent Peoples' Tribunal on State and Environmental Violence in West Papua

June 27-29th, 2024
London



	Day 1 / Thursday 27th June 2024
9:15 - 9:50	Registration
10:00 - 10:30 (18:00-18:30 Jayapura)	Opening Remarks Live from West Papua via zoom
10:30 - 10:45 (18:30- 18:45 Jayapura)	Introduction of the judges
10:45 - 11:00 (18:45- 19:00 Jayapura)	Opening statement: Secretary General of the Permanent Peoples Tribunal, Gianni Tognoni
11:00 - 11:30 (19:00- 19:30 Jayapura)	Prosecution opening statements Fadjar Schouten-Korwa and Papuan prosecutors
11:30 - 11:50 (19:30 - 19:50 Jayapura)	Testimony 1 Evidence of the Biak massacre. Live from West Papua via zoom
11:50 -12:10 (19:50 - 20:10 Jayapura)	Coffee break

12:10 - 12:30 (20:10-20:30 Jayapura)	Testimony 2 Evidence of the Abepura massacre. Live from West Papua via zoom
12:30 - 1:30 (20:30-21:30 Jayapura)	Lunch Break
1:30 - 2:00 (21:30-22:00 Jayapura)	Testimony 3 Evidence of the Wamena massacre. Live from West Papua via zoom
2:00 - 2:20 (22:00- 22:20 Jayapura)	Testimony 4 Evidence of exclusionary nationalism as institutionalized racism. Live via zoom
2:20 - 2:40 (22:20- 22:40 Jayapura)	Testimony 5 Evidence of palm oil plantation and land grabbing. Live from West Papua via zoom
2:40 - 3:00 (22:40- 23:00 Jayapura)	Coffee break
3:00 - 3:20 (23:00-23:20 Jayapura)	Testimony 6 Evidence of palm oil plantation and land grabbing.. Live from West Papua via zoom
3:20 - 3:35 (23:20- 23:35 Jayapura)	Testimony 7 Evidence of land grabbing Recorded video testimony
3:35 -3:55 (23:35- 23:55 Jayapura)	Testimony 8 (Resource witness) The West Papua Project (Jim Elmslie, Cammi-Webb Gannon, Ronny Kareni , University of Wollongong, Australia) Written submission to be read out
3:55 - 4:10 (23:55- 00:10 Jayapura)	Testimony 9 (Resource witness) Sophie Chao , University of Sydney Voice recording
4:10-4:30 (00:10 - 00:30 Jayapura)	Testimony 10 (Resource witness) Amnesty International Indonesia Written submission to be read out
4:30 - 5:00 (00:30 - 01:00)	Testimony 11 Raki Ap In-person oral testimony

Jayapura)	
5:00 - 5:10 (01:00 - 01:10 Jayapura)	Summary remarks by prosecution and close

	Day 2 / Friday 28th June, 2024
9:00 - 9:20	Registration
9:20 - 9:30 (17:20 - 17:30 Jayapura)	Opening statements

9:30 - 10:00 (17:30 - 18:00 Jayapura)	Testimony 12 Introduction of the testimonies that follow – providing context - to show the impact of state repression, forced displacement, extrajudicial killings and unlawful detention in relation to the land and cultural wellbeing of the Indigenous Papuan people. Live from West Papua via zoom
10:00 - 10:30 (18:00 - 18:30 Jayapura)	Testimony 13 Evidence on state violence in Maybrat. Recorded video testimony
10:30 - 10:50 (18:30 - 18:50 Jayapura)	Testimony 14 (Resource witness) Eben Kirksey , University of Oxford In-person oral testimony
10:50 - 11:10 (18:50 - 19:10 Jayapura)	Coffee Break
11:10 - 11:30 (19:10 - 19:30 Jayapura)	Testimony 15 Evidence of restriction of freedom of speech and racism. Live from West Papua via zoom
11:30 - 11:50 (19:30 - 19:50 Jayapura)	Testimony 16 Evidence of restriction of freedom of speech and racism. Live from West Papua via zoom

11:50 - 12:20 (19:50 - 20:20 Jayapura)	Testimony 17 (Resource witness) Anonymous Private testimony delivered only to judges.
12:20 - 12:40 (20:20 - 20:40 Jayapura)	Testimony 18 Evidence of the mutilation case in Mimika. Live from West Papua via zoom
12:40 -1:40 (20:40 - 21:40 Jayapura)	Lunch Break
1:40 - 1:50 (21:40 - 21:50 Jayapura)	Testimony 19 Evidence of racism and targeting of human rights defenders in Intan Jaya. Recorded video testimony
1:50 - 2:00 (21:50 - 22:00 Jayapura)	Testimony 20 Anonymous Written submission to be read out
2:00 - 2:20 (22:00 - 22:20 Jayapura)	Testimony 21 (Resource witness) Samuel Rua-Nimetz , Brighton University In-person oral testimony
2:20 - 2:50 (22:20 - 22:50 Jayapura)	Testimony 22 (Resource witness) Human Rights Watch - Indonesia Researcher Live from West Papua via zoom

2:50- 3:10 (22:50 - 23:10 Jayapura)	Coffee break
3:10 - 3:40 (23:10 - 23:40 Jayapura)	Testimony 23 (Resource witness) Jacob Smith , Rights and Security International In-person oral testimony
3:40 - 4:10 (23:40 - 00:10 Jayapura)	Testimony 24 (Resource witness) Stephen Eichorn , University of Bristol Written submission to be read out
5:00	Close

	Day 3 / Saturday 29th June, 2024
9:30 - 10:00	Registration
10:00 - 10:20 (18:00 - 18:20 Jayapura)	Testimony 25 (Resource witness) INTERPRT x London Mining Network In-person oral and video testimony
10:20 - 10:30 (18:20 - 18:30 Jayapura)	Testimony 26 Introduction of the testimonies – providing context – to show the impact of environmental destruction, deforestation, poisoning of water sources caused by extractive industries with support of the Indonesian State. Live from West Papua via zoom
10:30 - 10:40 (18:30 - 18:40 Jayapura)	Testimony 27 Evidence of Freeport worker who was fired for going on strike. Live from West Papua via zoom
10:40 - 11:00 (18:40 - 19:00 Jayapura)	Testimony 28 Evidence detailing PT Freeport-Indonesia’s operations, lack of permits and the widespread destruction to the ecosystem as a result of toxic mine tailings and acid mine drainage. Live from West Papua via zoom
11:00- 11:20 (19:00 - 19:20 Jayapura)	Testimony 29 Evidence of illegal mining in Degeuwo. Live from West Papua via zoom
11:20- 11:40 (19:20 - 19:40 Jayapura)	Coffee break

11:40 -12:10 (19:40 - 20:10 Jayapura)	Defence closing statement
12:10 - 12:40 (20:10 - 20:40 Jayapura)	Prosecutor closing statement

12:40 - 1:40	Lunch break
1:40 - 4:30	Judges meet to discuss interim statement
4:30 (00:30 Jayapura)	Judges final statement
5:00	Closing