

## West Papua – in the international context

West Papua's international context is simple, it is a **colony**. Without the people's consent they were traded by the Netherlands during 1962 in a US drafted contract<sup>1</sup>. Although NGO reports such as the Yale Law School's 2004 "*Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control*" result from Indonesian abuse of human rights, the Papuan people know that injustices including Indonesia denial of free speech and the mining license of the American company Freeport since 1967 are aspects of traditional colonialism.

In June 2010 the Vanuatu parliament voted unanimously to sponsor a motion<sup>2</sup> at the UN General Assembly asking that the *International Court of Justice* (ICJ) be allowed to give an "advisory opinion" about the legality of the contract<sup>1</sup> trading West Papua in 1962, and about the colonial status of West Papua today. Irrespective whether Vanuatu is intimidated from presenting this motion, we suggest UN members have an obligation to ask for and acknowledge the court's independent legal *opinion*.

There has been global agreement since 1960 in *UN resolution 1514*<sup>3</sup> that UN members should remove their forces of repression and allow self-determination without delay (by "*voluntary choice by the peoples of the territory*" as stated in *UN resolution 1541*<sup>4</sup>), this process has been delayed and prevented by the US drafted contract<sup>1</sup> for 48 years. The Kennedy administration was manipulated<sup>5</sup> into drafting the agreement<sup>1</sup> trading people between colonial powers; "*The underlying reason that the Kennedy administration pressed the Netherlands to accept this agreement was that it believed that Cold War considerations of preventing Indonesia from going Communist overrode the Dutch case.*"<sup>5</sup> But people are not property, and irrespective of the US being scared<sup>5</sup> by the NSC and McGeorge Bundy into drafting the contract<sup>1</sup>, it was in violation of the previous *UN resolution 1514*<sup>3</sup>, in violation of the *UN charter* and *Universal Declaration of Human Rights*, and was contrary to *contract law* (claiming to be for benefit of the Papuan people when the US DoS summary<sup>5</sup> alleges the true purpose was to benefit the United States in alleviating it's Cold-war fears).

Another colonial manipulation is to exploit laziness, few people will make the effort to check source<sup>1,6</sup> records to verify if news reports are factual. The media and public since 1969 have been falsely told that the United Nations arranged the '*Act of Free Choice*' and had validated both the '*Act of Free Choice*' and the Indonesian *claim of sovereignty*. These claims are fiction. In short, the West Papuan people have not yet been allowed self-determination. The wording of the UN Secretary General's report and UN General Assembly resolution 2504<sup>6</sup> avoids describing the '*Act*' as a referendum or as compliance with the UN requirements of decolonization, or compliance with *resolution 1541*<sup>4</sup>, or as compliance with *resolution 1514*<sup>3</sup>. The US drafted contract<sup>1</sup> compelled the UN to send an observer who was not empowered to influence the Indonesian '*Act of Free Choice*'. Although the Indonesian conduct was in violation of it's own obligations as a member of the UN and was in violation of the US contract (*article 18* and others) no UN member has yet raised these violations at the UN General Assembly despite protests by the UN observer<sup>7</sup>.

West Papua is not and has never been a "domestic" matter for Indonesia or the Netherlands.

The people of West Papua have maintained objections to the US deal and Indonesian rule since 1962<sup>8</sup>.

Irrespective of any agreement between the Netherlands and Indonesia, **West Papua is a Dutch colony** until an act of self-determination is conducted in accordance with *UN resolutions 1514* and *1541*. East Timor provides precedence for self-determination in West Papua, legally East Timor was still a Portuguese colony<sup>9</sup> until an act of *self-determination* was conducted as required by *resolution 1514* and as described in *resolution 1541*.

Scare-mongers will suggest Indonesia would go to war to retain West Papua, but this fear-mongering is fanciful at best. The Indonesian GDP is over \$190b, although Freeport pays around \$2b in taxes the vast majority of Indonesia's wealth depends on it's trade with other members of the United Nations. Even in the fanciful concept that there could be a new coup against the civilian government, the Generals know that their forces are trained and equipped for domestic operations and would suffer a lose of face if they attempted a conflict with other UN members.

A sad reality is that the advice given to US presidents in 1961/2 and 1975 resulted in the transfer of mining rights from Papuans to the Freeport corporation, and oil rights from Portugal Oil to Conoco Phillips. Whether the US suffers problems with corporate influence of government advisory bodies, or whether the US seeks to address such matters; are domestic issues for the US. Papuan homelands have been cleared for foreign mining companies, farms and settlements; the Papuan people have been disenfranchised. The international issue is whether West Papua is a colony and whether the world wishes to end colonialism.

## If we were to help West Papua in the international arena, how could we do that ?

Some people in America have been trying to help for years, the US Congress in 2005 asked for the US Sec. of State to report on West Papua's status as a colony, and fifty members recently asked that freedom for West Papua be made a priority. There was never a secret US Jakarta policy, but there have been corporate colonial interests misrepresented as independent 'expert' opinion, they even allege Indonesia is too complex for normal human beings to understand when in fact it is easy to understand colonialism.

Indonesia knows about both *UN resolution 1514* and the recent *Kosovo decision* which would also be applicable, there is good reason that Indonesia has been silent about the Vanuatu announcement of it's wish to return the issue of West Papua to the General Assembly in September. Even if Indonesia succeeds in getting Vanuatu to mute this motion this year, we suggest such a motion is the best path towards better global prosperity. There is no need to involve the Security Council nor to ask Indonesia to submit to a court when Indonesia and the rest of the UN membership have already agreed to *UN General Assembly resolution 1514* and to the *UN Charter*. Asking for the ICJ advisory opinion should suffice.

### Background to Colonialism

Since ancient times world views on war, slavery, empire, colonialism and self-determination at the personal and national levels have evolved. During the Second World War nations from Britain to Australia feared becoming colonial possessions, and the United Nations charter was drafted with "decolonization" of the world as one of the UN founding principles. Fifteen years later the General Assembly agreed to two resolutions 1514 and 1541, the first states that nations are to withdraw forces of repression and to facilitate self-determination. The second resolution defines principles by which to decide if a territory is a colony (subject to section 73e of the UN charter) and principles describing self-determination.

However, the United Nations did not address corporate colonialism such as the Dutch East Indies Company (VoK from 1602 to 1796), nor the ambition of the Ford Foundation in the 1940s to promote Sukarno and his militia as a central authority from whom the Foundation expected US corporations to gain easy access to the mineral wealth of the islands surrounding Java.

After national elections were held in West Papua during January 1961 by which 16 of the 28 members of the New Guinea Council were elected, the Dutch Governor asked the Council to draft a new law to place the territory's resources into Papuan control. But unknown to the Dutch and Kennedy governments a Dutch exploration company which Standard Oil owned a 60% share of, in 1936 had discovered the world's richest gold and richest copper deposits were in West Papua. The US National Security adviser McGeorge Bundy was a close family friend of Freeport (another Rockefeller interest) director Robert Lovett.

The UN Secretary General was killed in September 1961, in the following weeks the New Guinea Council heard rumours that the US was asking the UN to be party to a deal trading West Papua as property between colonial powers. The temporary UN Secretary General discovered the UN was short of money and was grateful for the US sponsorship of a \$200m bond scheme for the UN. For undocumented reason the US contract was put before the members of the UN General Assembly in resolution 1752 without benefit of legal advice (ICJ) whether the contract was legal. In effect, resolution 1752 traded a nation and a newly elected national Council between foreign colonial powers. It was the height of the Cold-war and fear of Soviet domination was the reasoning used by Freeport friend McGeorge Bundy and the NSC to convince the Kennedy administration of the need for this trade to be achieved.

Any corruption and double standards of the Indonesian state can not be expected to improve until the world is also honest about double standards. We submit that supporting a motion at the United Nations asking the ICJ to give it's independent opinion about the legality of the *New York Agreement* and whether West Papua is a colony, is in the global interest.

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<sup>1</sup> US drafted agreement between the Netherlands and Indonesia, see copy <http://wpik.org/Src/NYA.html>  
<sup>2</sup> Vanuatu motion for the UN General Assembly, see copy <http://wpik.org/Src/vanuatu.html>  
<sup>3</sup> United Nations General Assembly resolution 1514, see copy <http://wpik.org/Src/unga1514.html>  
<sup>4</sup> United Nations General Assembly resolution 1541, see copy <http://wpik.org/Src/unga1541.html>  
<sup>5</sup> US Dept. of State summary for 1961-63, see copy [http://wpik.org/Src/1961\\_US\\_record.html](http://wpik.org/Src/1961_US_record.html)  
<sup>6</sup> United Nations General Assembly resolution 2504, see copy <http://wpik.org/Src/unga2504.html>  
<sup>7</sup> Statements by UN representative Ambassador Oritz-Sanz, see copy <http://wpik.org/Src/NYT/19690707.pdf>  
<sup>8</sup> First protest rally against being traded, 10th August 1962, see copy <http://wpik.org/Src/SMH/19620812.pdf>  
<sup>9</sup> <http://www.un.org/Depts/dpi/decolonization/trust2.htm> and paragraph 19 <http://www.un.org/documents/ga/docs/55/a55497.pdf>