



PERMANENT PEOPLES' TRIBUNAL

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SESSION ON STATE AND ENVIRONMENTAL VIOLENCE IN WEST PAPUA

SUMMARY OF THE JUDGEMENT

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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 law¹.

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 (CCCCJ) and a network of international and Indonesian human and environmental rights' organizations and associations. Following the procedures outlined in the PPT Statutes, the indictment² went through a careful instruction phase, considered consistent with the competences and the well-established doctrine of the PPT.

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 Islands).

The role of prosecutors has been assumed by Silvia Csevár (The Netherlands), Leonard Ijie (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.

The task assumed by this Tribunal was 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 regarding land and the environment. The documentation submitted to this Tribunal, and most especially the testimonies heard in the public hearings, paint a picture of a devastating attack on West Papuan lives and livelihoods. West Papua³ represents an exemplary case of contemporary denial of the right of self-determination, principle that was recognised in the Universal Declaration of the Rights of Peoples which gave birth to this Tribunal in 1979.

The Tribunal was asked to deliberate on four charges levied against the Indonesian

¹ 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

² The indictment is available in English (<https://ccccjustice.org/wp-content/uploads/2024/07/English-indictment.pdf>) and in Indonesian (<https://ccccjustice.org/wp-content/uploads/2024/07/Indonesian-indictment.pdf>)

³ West Papua refers to the former Dutch colony "Western New Guinea", which now consists of six Indonesian Papua provinces, situated on the western part of the island of New Guinea.

government, as well as foreign actors. Only certain passages of the judgement⁴, which consists of eight sections, are included in this document: a summary of the responses to the four charges and the deliberation and recommendations.

Summary of the responses to the charges of the indictment

Charge 1: Land grabbing

In the first charge of the indictment the Indonesian State is accused of “taking the ancestral land of the Indigenous Papua against their will”.

The Indonesian State defends itself against this accusation by claiming that it has introduced customary land laws into its legal system, but at the same time claims unlimited sovereignty, neither substantive nor procedural, over its entire territory, including West Papua.

As solemnly recognized and reaffirmed by the United Nations General Assembly in Plenary Session No. 107 on September 13, 2007, “indigenous people possess collective rights which are indispensable for their existence, well-being and integral development as people”.

In the case of the West Papua peoples, these rights have been in various ways violated by colonisation and dispossession of the lands first by The Dutch and then by the Indonesian Government.

Disrespected in particular has been the principle – enshrined in Article 19 of the aforementioned United Nations Declaration No. 107 – that States shall consult and cooperate “in good faith” with the indigenous people concerned through their own representative institutions “in order to obtain their prior and informed consent before adopting and implementing legislative or administrative measures that may affect them”.

As described in many writings by independent scholars and observers, since the controversial annexation referendum in 1969, named Act of Free Choice, the right of West Papuans not to be subjected to measures of forced relocation dispossession has been systematically ignored.

All of the witnesses heard by the Tribunal complained that 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 particular, the Tribunal also heard evidence of a growing number of cases of land grabbing have been reported from regencies of Meraure, Mimika, Deiyai and Sorong in the period of April –June 2024.

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

Therefore, the Tribunal, in response of the charge 1, recognize that the Indonesian State has violently affected the indigenous peoples' relationship with their land, both by expropriating and displacing them from their territories in order to allow their exploitation – mining, industrial, agricultural – and by disrupting the natural environment in which they were born and live, in the name of ecologically unsustainable economic development.

⁴ The full judgement is available in English: https://permanentpeopletribunal.org/wp-content/uploads/2024/10/PPT-JUDGEMENT-WEST-PAPUA_FINAL_3_10_24.pdf

Charge 2: The shadow of fear

In the second charge of the indictment the Indonesian State is accused of “of violent repression [...] as means of furthering industrial development.

In several occasion, the Indonesia State has declared that it deals with all allegations of human rights violations [...] appropriately. The State has also declared that military operations are proportionate and are part of expanded operations to eradicate the OPM and protect the civilian population. However, this Tribunal has considered that the operations claimed to “protect civilian populations” only produce more victims.

A better summary of the current situation in West Papua regarding human rights violations is a phrase of a witness: “We live in the shadow of fear”. The condition of fear has been constructed over the time via State crimes as well as grants of impunity for the perpetrators of those crimes.

Regarding only the last few years, most of the reports submitted to the PPT give a clear picture of continued and systematic repression of the West Papuan population, including unlawful detention, extrajudicial killing and population displacement. In particular:

- 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, with no access to basic necessity, such as health care services and education.
- Amnesty International (May 2024) documented at least 131 victims of unlawful killings only between January 2018 and March 2024.
- Amnesty also notes the ongoing suppression of peaceful political expression. TAPOL documented 245 new political prisoners only from the beginning of 2019 until September 2020. 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.
- 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.

The judicial system is not able to guarantee incisive and independent investigation into most of the serious crimes committed against the people of West Papua. Impunity is rampant in West Papua.

It is evident that the different reports and testimonies presented before this Tribunal constitute only the visible tip 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 as peoples' obliteration

In the third charge of the indictment the Indonesian State has organised environmental degradation as result of the industrial development and the investment of national and foreign companies.

The judges consider that the Indonesian State, aided by several non-Indonesian States such as those of the US, Australia, the UK, the Netherlands and Denmark, has indeed organised what is called environmental degradation. This organisation proceeds through a regime of terror;

militarization; land, forest and water seizures; legal impunity; surveillance; and other restrictions on the conduct of human life and livelihood as well as on exchanges of thought and information. It occurs through three mechanisms: 1. profit-driven mining of gold and copper and the extraction and liquification of natural gas (the PPT heard, in particular, evidence on the American Freeport McMoRan and the Grasberg mine, as well as on BP and its 5 partners for the Tangguh gas field; 2. deliberate deforestation for palm-oil plantations and other agribusiness operations (the PPT hear cases on 11 national and international companies); and (3) recent food estates projects.

As testimony to this Tribunal has revealed, the effects on land, water and forest use have been severe. Mining, timber and agribusiness projects and the infrastructure associated with them, largely oriented toward export, 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. Such effects have been experienced in, among others, Mimika, Merauke, Intan Jaya, Maybrat, Jayapura, Sorong and Paniai Regencies

Mining operations were cited as the cause of large-scale water contamination and the accumulation of toxic tailings and other wastes, affecting fisheries, agriculture and human health. Oil-palm plantations are associated with loss of forests – which still cover some 78 per cent of the total land area of West Papua, despite rapidly increasing rates of clearance since 2002 – as well as water pollution, loss of mixed agriculture and biodiversity. Nor have the effects only been local. Industries activity exacerbates global warming and destabilizes world climate.

Papuan witnesses reveal that the “environmental degradation” can’t be disaggregated from State and corporate projects which are tending toward the obliteration of a people, or what was called by more than one witness a “slow genocide”. The organisation of ecological degradation to which Charge 3 refers is indistinguishable from the organisation of a racist project that everywhere seeks to exclude West Papuans as a group from ownership of their territories.

The everyday acts of publicly or officially characterizing Papuans as “primitive”, “monkeys”, “dogs” or “pigs” cannot be separated from equally widespread acts of denigrating their agriculture and common lands in formally similar terms.

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. An increasingly divisive racialisation is one form that industrial development has taken in West Papua.

The integral links with the territory have a political implication for the extractive corporations that are bent on profiting from West Papua, together with the Indonesian State that supports their interests. It means that corporations and the State have no choice but to separate West Papuans from their land if they are to pursue their current mining, logging and plantation projects.

Papuan witnesses explained the implication of the business-State-military nexus that characterizes the industrial activity in the region:

- Military repression and brutality against West Papuans, often involving massacres or the threat thereof, are frequently connected to what are conventionally classified as “environmental” conflicts.
- Numerous witnesses to this Tribunal testified that the State commonly slanders attempts to defend ecosystems, to combat racism, or indeed to carry out protests

against injustice of any form, as “separatism”, or treats them as insurrection or “terrorism”.

- The State’s environmental-cum-military strategy of using force to separate West Papuans from their land and the land from West Papuans takes an especially stark, violent form in the phenomenon of “internally-displaced persons”
- State-sponsored transmigration programmes has weakened, as several witnesses testified, the political power of West Papuans who are attempting to conserve local land, water and forests, while increasing that of the Indonesian State, which structurally has far less interest in defence of the nonhuman environment.
- Unilateral changes to the Papuan Special Autonomy Law of 2001 adopted in 2022, not only excluded the Papuan People’s Assembly from the discussions, but also accelerate exploitation of natural resources” as well as militarization in remote areas.

The Indonesian government declined to offer this Tribunal a response to Charge 3. However, it has gone on record elsewhere to defend its actions with respect to West Papua’s territories and peoples. These statements have been noted but the judges find them inadequate when faced with the evidence that the Tribunal has considered.

With respect to the environment, as traditionally conceptualized by States, the Indonesian government has called attention to its regulatory system, noting that laws - controlling industrial pollution, deforestation, and so on - are on the books and claiming, for example, that breaches of emission quality will result in administrative or criminal sanctions against businesses responsible

Again, however, to note the existence of these laws is not by itself an answer to the questions raised by the many severe violations of the human and community rights of West Papuans that evidence presented to the Tribunal has proved are taking place on the ground today across West Papua in the service of the State’s extractive policies.

Charge 4: Collusion

In the fourth and last charge the Indonesian State is accused of collusion with national and foreign companies, causing 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 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. 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.

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, such as alleviate poverty and raise overall living standards.

Phase two: Entry and control, it is the case of the intervention and continued presence of the TNI documented for this Tribunal, 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. 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.

Phase three: Monitoring and repression, to ensure there are no disturbances. If resistance emerges, it tends to be met with sustained repression until such time as it is neutralized.

The corporations considered in the Indictment are directly implicated in the violence perpetrated against Indigenous community in West Papua. Their specific responsibility over the harm caused to the peoples, lands and resources needs to be investigated. The Tribunal also read and heard testimony which connect Western States' training of Indonesian security forces, responsible of human rights abuses. The Tribunal therefore finds that not only the Indonesian State, but also States where these companies are based, need to be brought under international scrutiny.

Deliberation and Recommendations

Based on the evidence examined, the State of Indonesia is convicted of all the charges in the indictment, namely:

- of taking by various means 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;

- of violent repression, including unlawful detention, extra-judicial killing, and population displacement in West Papua as a means of furthering industrial development;
- 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;
- of colluding with national and foreign companies to cause environmental degradation, population displacement and sustain violent repression in West Papua.

To put an end to, and in any case to mitigate, the unlawful and harmful effects of the conduct condemned, the Tribunal recommends that:

A) The government of Indonesia

Ancestral land, environment and Indigenous Papuans

The government of Indonesia should honour its obligations as an UN member State and ensure a valid act to freely exercise the right of self-determination in accordance with the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples.

The government of Indonesia should ensure that any framework of development in Indigenous lands must properly introduce real self-determination for Papuans to ensure they have autonomy and meaningful collective bargaining.

The government of Indonesia must prioritize the interests of Indigenous Papuans in relation to industrial developments in West Papua.

The government of Indonesia must take measures to ensure adequate environmental protection in order to safeguard Indigenous Papuan peoples' identities – which are culturally and spiritually entwined with their ancestral lands, and properly monitor and enforce these measures.

The government of Indonesia must recognise rights over traditional territories, Indigenous land tenure systems and traditional occupation, to guarantee their respect and protection and ensure that they are not supplanted by simplified private ownership.

The government of Indonesia must take measures in appropriate cases to safeguard the right of Indigenous Papuans to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities such as shifting cultivation or hunting and fishing grounds.

The government of Indonesia and the private sector must properly secure the free, prior, and informed consent of Papuans for all matters affecting them, in order to achieve social peace, and protect Indigenous and ecological systems in West Papua.

The government of Indonesia must refrain from coercing or forcing Indigenous Papuans to conform to Indonesian frameworks for self-determination and self-governance over their land and resources. Indigenous Papuans have the right and resources to engineer their own frameworks for their self-governance and development.

The government of Indonesian must secure the autonomy of Indigenous Papuans and secure their autonomy and actively involve Indigenous Papuans in the measures, programmes, and activities that exist or will be initiated to shape their development and overall wellbeing.

The government of Indonesia and concerned authorities must ensure that education frameworks in West Papua are contextualized to fully recognize Indigenous Papuans' cultural identities, languages, and religious and spiritual beliefs in their own cultural spheres.

The government of Indonesia have to enhance their efforts in reversing deforestation by 2030 to limit global warming to 1.5°C above pre-industrial levels regarding the deep concerns of the Tribunal with the rate of deforestation – notably from oil palm - in West Papua.

Internally displaced peoples

The government of Indonesia must not organize, facilitate or allow for violence, environmental degradation, or the utilization of the law and State mechanisms to arbitrarily and unethically displace Papuans from their land.

The government of Indonesia must ensure adequate protection and assistance is given for Papuans who are forcibly uprooted from their traditional lands due to violent conflicts, gross violations of human rights and other traumatic events.

The government of Indonesia must endeavour to provide safe pathways for internally displaced Papuans to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntary in other parts of the country.

The government of Indonesia should assign the relevant authorities to ensure that displaced persons who have returned to their homes or places of habitual residence or have resettled in another part of the country should not be discriminated against as a result of them having been displaced.

The government of Indonesia should assign the relevant authorities to, assist in the return and/or resettlement of internally displaced Papuans, including the recovery of their property and possessions left behind or dispossessed upon their displacement. When the recovery of such property is not possible, the relevant authorities must provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

The government of Indonesia should ensure that authorities, under all circumstances, should neither conduct nor fail to prevent direct or indiscriminate attacks or other acts of violence against internally displaced Papuans, including Papuan belligerents who do not or no longer participate in hostilities.

Justice and the rule of law

The government of Indonesia must refrain from oppressive use of the State's power structures to criminalize peaceful West Papuan activities, and justify the entry and exclusion of access to land for the purposes of appropriating and exploiting resources.

The government of Indonesia repeal or substantially amend Articles 106 and 110 of Indonesia's Criminal Code (KUHP) for the purpose of realigning them with the limitations specified by the International Covenant on Civil and Political Rights, to which Indonesia is a State party.

The government of Indonesia must ensure that the judiciary and the rule of law are impartial and accessible to Papuans, and that adequate penalties and remedies for any violations of their rights are administered justly, as they would be for any other citizen.

The government of Indonesia and its apparatuses must not authorize, support, or acquiesce to any enforced disappearance. The government of Indonesia must take all necessary and reasonable measures to investigate, prevent, and/or repress the commission of an enforced disappearance, or to submit the matter to the competent authorities for investigation and prosecution.

The government of Indonesia and its apparatuses must ensure that those implicated in enforced disappearance receive appropriate sentences and penalties under its legal systems, and that the victims have the right to obtain reparations as well as prompt, fair, and adequate compensation.

The government of Indonesia must adequately assist victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains.

The government of Indonesia should establish an inquiry to assess damage and compensation and restitution to the families of those killed and compensation to those who suffered injuries in past events including, but not limited to, the Biak massacre, Abepura massacre, Manokwari massacre, and Wamena massacre.

The government of Indonesia should ensure that any state decision to suspend telecommunications in the region of West Papua will have a clear legal basis outlining the purpose and objectives of such decision with reasonable notice.

Access to UN organisations and humanitarian assistance

The government of Indonesia must grant access to the Office of the United Nations High Commissioner for Human Rights, UN Special Rapporteur, and other UN human rights bodies to visit West Papua for the purposes of fully investigating human rights violations and promoting and protecting such rights. This demand is now supported by over 100 UN member States.

The Tribunal encourages the relevant UN organizations to consider the recommendations under S.9 III to VI of the 22nd Leaders' Summit of the Melanesian Spearhead Group.

All authorities concerned must grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to internally displaced persons. Furthermore, authorities shall not divert humanitarian aid and relief for political or military purposes.

B) Private Sector

The Tribunal cautions industrial mining companies against promoting the narrative that their activities are essential for global decarbonisation efforts and that they benefit local communities, especially when there is evidence linking these activities to widespread environmental degradation, the loss of Indigenous livelihood and lives, and conflict and disharmony.

Past and present industrial companies must be accountable for the environmental degradation and human rights violations linked to their activities.

C) Countries in the region

The Tribunal welcomes the decision of the Pacific Island Forum and the Melanesian Spearhead group on appointing special envoys to engage in talks with Indonesia on the issue of West Papua. The Tribunal encourages the envoys to accentuate human rights concerns and the recommendations by this Tribunal to the government of Indonesia in their engagement(s).

The Tribunal encourages the leaders of the Melanesian Spearhead group to continuously support West Papuan representation within the different national, regional and international fora, as well continuously advocate for transparency and accountability to the human rights situation in West Papua.

D) International community and private actors

The Tribunal recommends that the critical collusion with the government of Indonesia of the States and companies listed below must be urgently assessed and appropriately addressed in ad hoc and competent forums to assure policies coherent with a democratic evolution of the West Papua peoples.

Palm Oil

Wilmar International Ltd, Singapore
Golden Agri-Resources Ltd, Singapore
Astra Agro Lestari, Indonesia
Bumitama Agri Ltd, Indonesia
Carson Cumberbatch PLC, Sri Lanka
Grupo Bimbo, Mexico
Noble Group, Hong Kong
Salim Ivomas Pratama, Indonesia
Jardine Matheson, Great Britain
Permata Nudri Madiri, Indonesia
Niche Jungle, Great Britain

Oil and Gas

BP, Great Britain is the lead Tangguh LNG facility partner. Other partners are:
Mitsubishi Corporation, Japan
CNOOC, China
Nippon Oil Exploration, Japan

Kanematsu Corporation, Japan
Indonesia Natural Gas Resources Muturi Inc., Indonesia

Mining

Freeport McMoRan Inc, US (Grasberg mine)

E) National and international civil society organisation

The Tribunal acknowledges the tireless contributions of civil society organisations in promoting and protecting human rights in West Papua. The Tribunal encourages their continued vigilance, reporting, and assistance in mitigating human rights violations and facilitating access to justice and remedy for victims.

The Tribunal calls on States: to empower grassroots Papuan organisations to conduct their work without fear of harassment, intimidation, and stigmatisation for their activities, and to halt arms sales and cooperation/data sharing with Indonesian security forces.