

CHAPTER ELEVEN

CONCLUSIONS

Some Arguments For and Against Papuan Self-Determination

The purpose of this thesis has been to provide a detailed examination of how the 1962 New York Agreement was put into practice, with a particular emphasis on the role of the United Nations.

Some academics, while acknowledging that the human and political rights of the Papuans - “a relatively small number of people” - were denied, emphasise the Agreement’s achievement of preventing of a war that would not have been in the West’s interests.¹ It has also been argued that genuine Papuan self-determination might have “set in train the dissolution of innumerable ethnically complex states whose main claim to unity derives from the colonial mandate. The consequences of this for the stability of the international system could be incaluable.”² Also on this issue, May and de Silva wrote:

Separatism could be and is a powerful destabilizing force. It has generally been held at bay by that even more powerful force - Asian nationalism embodied in the post-colonial state system of Asia. Separatist movements in the Third World, in general, find that the great obstruction they face is a widespread hostility to disturbing the status quo. Because practically everyone is vulnerable to the pull of indigenous - and often, external - separatist forces, it is seen to be in everyone’s interest to help existing post-colonial nation-

states resist threats to their integrity from indigenous as well as external separatist force.³

Furthermore, one can question how genuine a force was “Papuan nationalism” among the traditional tribal societies that predominated in West New Guinea during the 1960’s. Benedict Anderson argues that the 1969 Papuan rebellions were “ethnic” and “local,” not clear manifestations of Papuan nationalism. “Being anti-Indonesian doesn’t automatically mean being ‘nationalist.’”⁴

For other commentators, the relevant issue was that the Agreement, and its relatively peaceful implementation, was an example of a successful UN intervention which could serve as a model for future operations, particularly those involving the temporary administration of a territory.⁵ The dispute and its settlement have also been studied as an example of effective conflict resolution.⁶

On the other hand, in an argument which I believe is relevant to the case of the West Papuans under Indonesian rule, Mullerson asserts that, while there is no right to secession in international law:

when a minority is denied its rights and is oppressed and discriminated against, it is thereby rejected by the majority. The majority rejects and alienates the minority leaving it outside the society. Thereby the minority becomes not simply ethnically or religiously distinct,...but also socially, economically and politically different from the majority. We can say that the minority, due to the policy of the majority which does not permit the minority to fully develop its identity, acquires characteristics similar to those of colonial peoples. It can survive as a distinct group only independently of the majority. Therefore, the principle of the self-determination of peoples becomes directly relevant to such minorities.⁷

One can also argue that, as a result of Jakarta's deliberate policy (initiated in the 1960s) of settling hundreds of thousands of non-Papuans in the territory, the indigenous population's situation may soon be comparable with that of the aborigines of Australia and the native Americans. On the issue of such peoples, a delegate at the first session of the UN Working Group on Indigenous Populations in 1982, declared :

Those peoples we call indigenous peoples are nothing more than colonial peoples who were missed by the great wave of global decolonisation following the Second World War, particularly where independence was granted, not to the oppressed inhabitants of a territory but to an intrusive and alien group newly arrived.⁸

As previously noted, on the specific issue of West Papuan self-determination, Constantin Stavropoulos, the UN legal counsel, advised U Thant in June 1962 that there was a "strong presumption" in favour of self-determination for the West Papuans, "irrespective of the legal stands or interests of other parties to the question."⁹

Supporters of this position often refer to the 1960 UNGA resolution on the granting of independence to colonial peoples. In particular they cite article 5 which calls for immediate steps to be taken:

...in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire.....in order to enable them to enjoy complete independence and freedom.¹⁰

However, one can counter this by pointing out that the resolution was only intended to address the issue of European colonialism. This is made clear in article 6 which is a deliberate rejection of separatism:

Any attempt aimed at the partial or total disruption of national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.¹¹

I would contend, though, that since West New Guinea was recognised by the UN in 1960 as a Non-Self-Governing Territory, article 5 was directly applicable to its case, while article 6 was irrelevant. As a consequence, this resolution remains a key factor in the case for West Papuan self-determination.

Implementation of the New York Agreement

Important as all these arguments are, the purpose of this thesis has not been to assess the legitimacy of the West Papuans' right to self-determination, because this right had already been explicitly acknowledged and guaranteed by The Netherlands and Indonesia when they signed the New York Agreement. Furthermore, by agreeing to play a central role in the implementation of this Agreement, the UN Secretariat undertook a responsibility to ensure that it was properly fulfilled.

Specifically, under this Agreement, The Netherlands, Indonesia and the UN had an obligation to protect the political rights and freedoms of the Papuans, and to ensure that self-determination took place freely in accordance with international practice. On both these points, the three parties failed, and they did so deliberately

because genuine Papuan self-determination was never considered as a serious option by any of them once the Agreement had been signed.

On the UN's role in the Agreement's implementation, it is clear that the Secretariat's priority throughout was to ensure that the territory became a recognised part of Indonesia with the minimum of controversy and disruption. This was a role that had been assigned to the UN by Washington in 1962 and U Thant saw no reason to deviate from it. This was "big power" Cold War politics in which the rights of the Papuans counted for nothing. Indeed it would have been almost inconceivable for it to be otherwise.

Discussing the attitude of the Secretariat following the signing, Markin notes:

As Jakarta then established procedures [for the Act] to ensure the outcome it wanted, it found that the pressure it had encountered during the talks for a meaningful exercise had abated significantly. The Americans, who had repeatedly assured the Netherlands during that time that they would 'stand accountable by our principles' by insisting on a self-determination process that was a 'reality and not a mockery', began shortly after the signing ceremony to argue that the responsibility for ensuring a fair exercise really lay with the UN and the Netherlands. Around the same time, the Dutch were losing much of their will to press this issue as the topic of West New Guinea faded from the Netherlands political scene with the renewal of economic and political relations with Indonesia. And with neither the US nor the Netherlands pressing the issue, the UN had little incentive to do so.¹²

To fulfil its role adequately, the UN tolerated Indonesian interference and intimidation of the Papuans and itself throughout the UNTEA period. A specific example of this was the banning in December 1962 of the planned Papuan nationalist

march. Although UNTEA claimed the organisers had called it off, it was in fact banned by UNTEA as a direct result of a threat by the Indonesian Government to U Thant that its armed forces could react violently if the march was not prohibited.¹³

The UN Secretariat also lied publicly as part of a policy of collaboration with Jakarta during UNTEA. Specifically, Narasimhan stated in February 1963 that the UN's decision to withdraw from West New Guinea on 1 May was in response to the wishes of the Papuan population. In fact confidential reports from senior UNTEA officials, and the UN Secretariat, clearly demonstrate that they believed the majority of Papuans did not want to be ruled by Indonesia. These senior officials also concluded that expressions of pro-Indonesian Papuan sentiment were the result of deliberate manipulation by Jakarta. But the same reports made clear that the UN wished to depart no later than 1 May (and debated pulling out as early as February), because it assessed, accurately, that growing Indonesian dominance of the territory's security and administration meant that even the appearance of UN authority could not be sustained beyond this point. Furthermore, the 1 May handover date seems to have already been agreed by the Dutch and Indonesians before the signing of the Agreement.¹⁴

Following UNTEA's withdrawal, the Agreement states that a number UN 'experts' were to remain to assist and participate in preparations for the Act. But when Indonesia ignored U Thant's initial approach on the issue, the Secretary-

General made no effort to press them further, and the matter was effectively dropped until its mention in the UNGA report of November 1969.

Significantly, there is evidence that the UN Secretariat and the Dutch had already privately agreed with Jakarta in 1963 that they would not object to the eventual Act being carried out solely via a number of 'representative' councils, without any direct voting on the issue by the population. This agreement to deny a direct vote even in the urban areas, was a fundamental abrogation of responsibility by both the Netherlands and the UN, and cannot be justified on the grounds of West Papuan 'primitiveness.' To demonstrate this, one need only look at the organisation's treatment of political developments over the border.

In 1962, following a visit to Australian New Guinea, the UN's Trusteeship Council (which included members from India, China and the USSR) produced a report noting that a Legislative Council, with the first elected representatives, had already been established. It then concluded that it was now possible:

...to plan for a Parliament of Papua and New Guinea of about a hundred members elected on the basis of direct election and by adult suffrage under a system of single member constituencies. It proposed that all preparations for elections on this basis should be put in hand immediately and completed not later than the end of 1963.¹⁵

Two years later a House of Assembly was formed in the territory with 44 of the 64 members directly elected by the population. The stark contrast in the UN's

treatment of self-determination between East and West New Guinea demonstrates a cynical degree of hypocrisy by both the Secretariat and involved member states.

The UN and the Act

When a UN team returned in 1968, it was only sixteen in number and its head, Ortiz Sanz, spent at least half his time in Jakarta. Furthermore, it is clear that the task given it by U Thant was not, as laid down in the Agreement, to 'advise, assist and participate' in arrangements for an act of Papuan self-determination. Instead its role, in conjunction with the Secretariat, was to see that the final part of the Agreement could be completed with the minimum of controversy in such a way that Indonesian sovereignty over West New Guinea would be confirmed and the UN's responsibilities for the territory discharged. To facilitate this, the UN endeavoured to persuade Indonesia that a sufficient level of genuine Papuan participation should be included in the Act to minimise the opportunity for potential critics to question its validity.

An example of this was the UN's genuine attempt to ensure some Papuan participation in the process devised by Jakarta for selecting members of the special assemblies. Both U Thant and Ortiz Sanz emphasised privately and publicly the importance that they attached to there being some democratic dimension to these selections. In the Secretary-General's final report, much was made of Jakarta's agreement to hold fresh elections in some areas where UN officials had not been

present. In reality, though, this was a token gesture, and one can conclude that there was no genuine free participation by the people in the selection process.

Another possible example of UN efforts to involve the Papuans in the Act was Ortiz Sanz's suggestion of a "mixed method." Although open to manipulation, one can argue that it took into account different levels of political development around the territory, and could have produced at least an indication of public feeling.

But any method which permitted some genuine Papuan opinion to emerge was intolerable to Jakarta, and the reason is clear when one considers the evidence from non-Indonesian eyewitnesses of Papuan opinion throughout the 1960's. Effectively all of them, including foreign and UN officials as well as journalists, privately (or publicly in the case of journalists) acknowledged the overwhelming unpopularity of Indonesia in the eyes of those Papuans who had some experience of their administration.

Whether the Secretariat ever genuinely supported this method is unlikely, particularly in view of its possible prior private acceptance to omit all direct voting in the Act. While Rolz-Bennett may have urged Indonesia to "record some negative votes" to provide the appearance of legitimacy, a free and direct vote in the towns would have given too accurate a picture of Jakarta's deep unpopularity. While the final result could still have been manipulated to show a majority in favour of

Indonesia, the UN's objective of confirming Indonesian sovereignty with a minimum of controversy would not have been achieved.

Ortiz Sanz may, as Sudjarwo suspected, have proposed this method without proper consultation with New York. In the first months following his appointment, there is certainly evidence, albeit indirect from Australian diplomats, that he favoured a greater degree of free Papuan participation than the Secretariat. His communications to Sudjarwo and New York on the mixed method seem genuine enough.

Nonetheless, with no realistic possibility that Jakarta would have accepted any direct voting, it is probable that this option was raised simply as a public demonstration of UN concern for the political rights of the Papuans.

Although the UN's efforts to provide 'the appearance of legitimacy' failed, one can argue that the lack of significant international interest in the Act made this largely irrelevant at the time.

Having failed on this issue, U Thant and Ortiz Sanz focussed their attention instead on collaborating with Jakarta in its efforts to prevent any international criticism of the Act emerging. In this effort they were assisted by other states including the Netherlands, Australia and the UK who all privately lobbied those countries, particularly in Africa, which it was feared might condemn the result.

As part of this campaign, Ortiz Sanz deliberately misrepresented the extent of Papuan hostility to Indonesian rule. This was clearly illustrated in the false assertion contained in his report to the UNGA that the majority of petitions he received during his time in West Irian were pro-Indonesian.

For such an apparently experienced politician and diplomat, Ortiz Sanz was remarkably naive in his dealings with Sudjarwo, and was often out-maneuvred by him and other Indonesian officials and military officers. Nonetheless, as with UNTEA, he could not have been confident of support from the Secretariat in any significant disagreements with Jakarta. This might explain his reluctance, particularly in the final months, to confront the Indonesians over their systematic denial of political and human rights in the territory. In the end, though, he was a man with traditional views towards the treatment of ‘primitive peoples,’ and seems to have found little difficulty in justifying his part in the UN’s involvement.

When the New York Agreement was signed, none of those who had been involved were under any illusion that it would permit Papuan self-determination. But despite this, the Agreement guaranteed the Papuans political and human rights. It also guaranteed them the right to self-determination. In the event, these rights were effectively discarded by Indonesia and legitimised by the UN’s involvement and support. This was the case with UNTEA, but it was particularly evident in the year leading up to the ironically titled “Act of Free Choice.” If the UN’s motive in 1962

was to prevent a damaging Dutch/Indonesian war, there was no such justification in 1969. However, with no significant international pressure to protect the Papuans, U Thant evidently saw no reason to undermine the West's policy of encouraging and supporting the anti-communist President Suharto.

In 1997, Prime Minister Julius Chan of PNG commented:

It would certainly help some of us to really understand the procedures used in the West Irian case so as to avoid a similar situation in these other Pacific countries [such as New Caladonia] still seeking independence from colonial powers.¹⁶

Despite this, neither PNG, or any other state has so far been prepared to challenge the legitimacy of Jakarta's ownership. Even newly-liberated East Timor is unlikely to champion the Papuan cause.¹⁷ Furthermore, with nearly half the population now non-Papuan,¹⁸ even recognition by Jakarta that the Act was unrepresentative, would not necessarily move the resource-rich territory closer towards the independence now openly demanded by many of its people. But it would, perhaps, mark the beginning of a more honest relationship between Indonesia and its reluctant Papuan citizens.

More recently, in response to the Dutch Foreign Minister's decision to sanction a historical re-examination of the Act, Van Middelkoop the (GPV) MP who initiated the proposal responded "At last we can look the Papuans straight in the eyes."¹⁹ It remains to be seen whether the UN Secretariat wishes to join them in returning to an issue it so deliberately washed its hands of thirty years ago.

Conclusions

Notes

1. Markin, "The West New Guinea Dispute", p.482.
2. Henderson, West New Guinea, the Dispute and its Settlement, p.252.
3. De Silva & May Internationalization of Ethnic Conflict, p.3.
4. E-mails to author from Benedict Anderson 1 and 8 February 2000.
5. Rikhye, The Thin Blue Line, p.159; Arthur Rovine, The First 50 Years: The Secretary-General in World Politics 1920-1970, (Leiden: A.W. Sijthoff, 1970) pp.362-368.
6. Markin, "The West New Guinea Dispute"; Henderson, West New Guinea, the Dispute and its Settlement.
7. Rein Mullerson, International Law, Rights and Politics, (London: Routledge, 1994), pp.71, 77.
8. Quoted in R.L. Barsh, "Indigenous people: An Emerging Object of International Law" American Journal of International Law, (1986) p.376, quoted in Richard Mulgan, "Should Indigenous Peoples have Special Rights?" Orbis (Journal of World Affairs, Philadelphia), Vol 33 No.3 (Summer 1989), pp. 375-388.
9. UN: Series 100 Box 2 File 7. C. Stavropoulos to U Thant, 29 June 1962.
10. UNGA Resolution 1514, Article 5, 14 December 1960.
11. *ibid*, Article 6.
12. Markin, "The West New Guinea Dispute", pp.479-480.
13. See Chapter 3 p.76 above.
14. See Chapter 3 p.65 above.
15. UNGA Official Records: Seventeenth Session Supplement No.4 (A/5204) Report of the Trusteeship Council 20 July 1961 - 20 July 1962. (UN, New York, 1962).
16. Letter to author from Prime Minister Julius Chan of PNG, 5 August 1996.

17. Conversation between author and J. Ramos Horta, London, 21 October 1998.

18. Possible solutions for this include the controversial policy implemented by the newly independent Baltic states in the early 1990's to deal with the presence of significant numbers of Russian immigrants. These ethnic Russians were effectively disenfranchised by restrictive citizenship legislation (see Mullerson, "International Law, Rights and Politics", pp.111-113). Another option would be one based upon that adopted by the UN Security Council for the planned act of self-determination in Western Sahara. Participants would be limited to those listed in the 1974 Spanish census of the territory, thereby excluding recent migrants deliberately moved in by Morocco which claims sovereignty. With no equivalent census available for Papua, another form of eligibility would be necessary, perhaps involving some evidence of tribal affiliation.

19. "Transfer of New Guinea Investigated", Algemeen Dagblad (Rotterdam), 10 December 1999. English translation provided by PaVo (Foundation Study and information Papuan Peoples), Utrecht, Netherlands.