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SOVEREIGNTY AND THE LIMITS OF INDIGENOUS RIGHTS IN WEST PAPUA

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ABSTRACT: This article examines an apparent political paradox facing Indigenous West Papuans as they grapple with the issue of how to represent themselves to the outside world in order to ensure their survival and protect their dignity: that is, they must simultaneously present as one body and as many—as a unified nation deprived of and legitimately entitled to a state, and as a multiplicity of diverse Indigenous peoples requiring the protection of Indigenous rights to safeguard their cultures. Echoing the perspectives of prominent West Papuan rights advocates, this article argues that Indigenous rights alone are insufficiently comprehensive and powerful in their ability to protect the lives, livelihoods and cultures of West Papuans. To be effective, Indigenous rights for West Papuans must follow the actualisation of sovereignty—specifically, the Westphalian-influenced notion of sovereignty implied in the right to self-determination enshrined in the 1966 United Nations International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights. West Papuans must first be recognised as a singular body politic, a pan-Papuan nation with an attendant right to statehood, before they can live safely and fully as Indigenous peoples.

Keywords: West Papua, sovereignty, human rights, Indigenous rights, nation-statehood, UNDRIP, right to self-determination

Under conditions of globalisation, the status of nation-states as the paramount *actants* in international relations is under question (Appadurai 1996). In addition, the so-called postcolonial international political community appears increasingly reluctant to sanction the creation of new states (Habermas 2001), and political and academic wisdom encourages “peoples” seeking self-determination to pursue non-statist forms of sovereignty (Buchanan 1997). In such circumstances, the question of why West Papuans relentlessly and uncompromisingly envisage decolonisation from Indonesia in the form of nation-statehood rather than through alternative avenues of autonomy—in particular, through asserting Indigenous rights (see Bertrand 2011: 852)—bears scrutiny. This article argues that West Papuans have indeed attempted to claim Indigenous status and attendant rights but have largely been unsuccessful under Indonesia’s reign of violence and that state’s refusal to acknowledge the existence of Indigenous peoples at all within its borders.

For these reasons, West Papuans have felt compelled to pursue a state of their own as well as seeking recognition as Indigenous peoples. They hope that through achieving the former, the latter will also be realised.

When considering the following command from Bambang Soesatyo, speaker of the Indonesian People's Consultative Assembly (MPR), to the Indonesian military in April 2021, a primary rationale for Papuans' insistence on their own state—survival—becomes clear: “Just eradicate them. Let's talk about human rights later” (CNN Indonesia 2021). The “them” to whom Soesatyo refers are the Indigenous peoples of the contested Indonesian provinces of Papua and West Papua (known collectively by Papuan activists as “West Papua”¹) who are fighting for their independence—that is, most of the Indigenous population (Elmslie *et al.* 2021; Robinson 2010). Given, as is evident from this statement, the lack of esteem in which the Indonesian government holds West Papuan individuals' human right to life, what hope is there, West Papuans might justifiably ask, for Papuans' more specific Indigenous group rights (for example, those expounded in the Universal Declaration on the Rights of Indigenous Peoples (UNDRIP—United Nations 2006))—rights that clearly depend on the right to life—to be upheld under Indonesian rule? For if Indigenous Papuans cannot assume that, in the view of the Indonesian government, they have a right to simply exist as “a people” (or as people more generally), then they certainly cannot count on their right to exist as *Indigenous peoples*. It is this logic that has led many West Papuans to contend that the pursuit of Indigenous rights is futile until they have acquired their own independent state—a state under which their human right to life is not subject to ad hoc decrees of state politicians (Forkorus Yaboisembut, pers. comm., 2 Dec. 2008, Jayapura).

This article examines what appears to be a political paradox facing Indigenous West Papuans as they consider how best to represent themselves to the outside world to ensure their survival and protect their dignity. It asks, how do West Papuans simultaneously present as one body and as many—as a unified nation deprived of and legitimately entitled to a state of its own, and as a multiplicity of diverse Indigenous peoples² requiring the protection of Indigenous rights to safeguard their cultures? Echoing the perspectives of prominent West Papuan rights advocates, this article argues that Indigenous rights alone are insufficiently comprehensive and powerful to protect the lives, livelihoods and cultures of West Papuans. To be effective, Indigenous rights for West Papuans must follow the actualisation of sovereignty—specifically, the sovereignty of statehood as implied in the right to self-determination enshrined in the International Covenant on Civil and Political Rights (ICCPR—United Nations 1966a) and the International Covenant on Economic, Social and Cultural Rights (ICESCR—United Nations 1966b) rather than the more limited sovereignty articulated in the

UNDRIP. West Papuans must first be recognised as a singular body politic, a pan-Papuan nation with an attendant right to statehood, before they can live safely and fully as the approximately 300 Indigenous groups (Franklin 2019), each with different languages, cultures and relationships to land, that they comprise.

In addition, this article documents the various grievances and strategies that inform West Papuans' bifurcated political project of gaining national self-determination *and* ensuring Indigenous cultural preservation. Such twin ambitions, rarely held by Indigenous peoples in settler-colonial states of the global "north", who have tended to pursue the latter rather than the former (Niezen 2003: 51), are not so uncommon for Indigenous groups in the global "south", many of whom experienced immediate recolonisation under the imposition of postcolonial successor states which have sought to annihilate their identities (p. 72). First, this article outlines the development of a pan-West Papuan national identity—one that incorporates elements of many of West Papua's Indigenous cultures and that establishes West Papuans as a unified people entitled, under international law, to a state. Second, it chronicles the trajectory of hopes raised and then dashed in relation to participation in the global Indigenous rights movement as an opportunity to simultaneously promote the nation and protect Papuan Indigenous rights. Third, it examines the Indonesian state's attempts to manage West Papuan claims of indigeneity, at times showing motions of accommodation and at other times denying the existence of such rights, ultimately moving to quash Papuan nationalist *and* Indigenous political aspirations. Finally, it details how West Papuans have incorporated Indigenous identity expression(s) as a means of pursuing a nation-state envisaged as a pan-Papuan-Indigenous-influenced national culture but not an ethnic- or Indigenous-only state. Most Papuan leaders realise that a monoethnic state is impossible in a globalised world, but that a state with a dominant West Papuan cultural nationalism will offer Indigenous West Papuans their best chance of achieving Indigenous cultural preservation and sovereignty. It concludes by demonstrating how West Papuans are practising political self-determination despite the absence of recognition from Indonesia of their right to do so either as a nation or as Indigenous people.

THE BIRTH OF THE INDIGENOUS WEST PAPUAN NATION AND PAN-PAPUAN INDIGENOUS IDENTITY

When Indonesia won its independence from the Netherlands in 1949, it asserted sovereign claims to West Papua, a territory that had also been a Dutch colony, but which had been administered separately to the Dutch East Indies (now Indonesia). The Dutch, however, had different plans for West Papua, the territory comprising the western half of the island of New

Guinea (the eastern half of which is now the sovereign state of Papua New Guinea) and began to prepare West Papuans, whom they contended were ethnically and culturally different to other Indonesians (Elmslie 2002: 11), for independent nation-statehood. On 1 December 1961, the Dutch-supported New Guinea Council selected a national anthem, a national flag and a name for their nation—West Papua (King 2004: 49). Arguably, then, it was the Dutch who encouraged West Papuans to pursue a state of their own, and initially set West Papuans on the path to developing a formal nationalism. But the character of that nationalism, which is both pan-Melanesian and Indigenously inflected, was endogenously inspired. In response to Papuans' December 1 actions, the Indonesian government sent its military to invade the territory, beginning a process that some scholars proffer could constitute genocide under international law (Brundige *et al.* 2004; Kirksey 2012: xi). A Cold War-era deal between Indonesia, the Dutch and the USA, known as the 1962 New York Agreement, handed the administration of West Papua to the United Nations (UN) and then Indonesia. In 1969, the UN oversaw the so-called Act of Free Choice, a referendum in which West Papuans were to vote either for independence or for continued integration with Indonesia. The UN turned a blind eye to the farcical plebiscite in which Indonesia hand-picked less than one percent of the West Papuan population to vote and threatened the participants with violence if they did not vote for annexation to Indonesia (see Budiardjo and Soei Liong 1983: 31). Deprived of the opportunity for self-rule in 1962 and again in 1969 and conscious of the international movement towards decolonisation (Kluge 2020: 1160), Indigenous West Papuan activists began in earnest to fight, through guerrilla warfare and international diplomacy, for independent nation-statehood (Ondawame 2010: 65–93) whilst simultaneously building an ardent nationalism. “During the coming decades of Indonesian occupation,” Eben Kirksey reports, “thousands of indigenous Papuans were killed in bombing raids, displaced by military operations, subjected to arbitrary detention, executed, or ‘disappeared’. Forced sterilization campaigns and neglect of basic public health programs resulted in slower, perhaps more insidious, declines in West Papuan populations” (Kirksey 2012: xi). As Indonesian rule in Papua revealed itself as endlessly brutal and destructive, the push for a state became as much about West Papuans' survival as it was about decolonising in a way similar to other former Pacific and African colonies (Webb-Gannon *et al.* 2019: 189).

From the early 1970s and through the 1980s, in the decades following the failed Act of Free Choice, internal and external negotiations for West Papuan sovereignty were influenced primarily by the emergence of Westphalian-style postcolonial nation-states in Africa, Asia (Kluge 2020) and the Pacific (Webb-Gannon *et al.* 2019). During these years, West Papuan

leaders were concerned with constructing a pan-Papuan nation that was inclusive of all West Papua's Indigenous peoples and cultures, one that could account for a history of internecine violence and still convince the world that the Indigenous peoples of West Papua were a polis of sufficient unity, a nation-of-intent (see Webster 2002: 509). An obvious way of doing this was to interweave elements of West Papuans' myriad Indigenous cultures that together could be considered Melanesian, as distinct from Asian Indonesian cultures. That West Papuans' cultural nationalism took on Melanesian rather than Asian dimensions was not simply a product of Papuans' opposition to Indonesian rule. Rather, it was shaped by pre-colonial Asian–Melanesian antagonisms (Webb-Gannon 2021: 78) as well as cultural similarities (concepts of time, spiritual and cosmological beliefs, agricultural practices and social relationships and structures) with other Melanesian peoples (Moore 2003: 11).

A critical part of the nation-making process involved building infrastructure and networks through which geographically dispersed West Papuans could rally around Indigenous West Papuan–Melanesian symbols of identity. These symbols included Papuan songs and dances (Smythe 2013), consumption of sago (a starchy staple consumed in parts of Melanesia) rather than “Asian” rice, and apparel such as the *koteka* ‘penis gourd’ and feathered headdresses. Biak anthropologist and musician Arnold Ap was an early architect of such infrastructure. He envisioned a homeland for West Papuans in which its Indigenous peoples could express their cultural identity freely without fear of Indonesian army reprisals (Webb-Gannon 2019: 123). When Cenderawasih University in Jayapura opened a cultural museum in 1973, Ap was appointed its curator. He travelled widely throughout West Papua, documenting traditional music, dances, stories, art and architecture (Buttry n.d.; see also Glazebrook 2004). In 1978, he formed the band Mambesak with his friend Sam Kapissa and several of their peers, performing original compositions and traditional songs, and recounting jokes and humorous stories collected during Ap's travels through Papua (Ibrahim 2021). Mambesak also hosted a weekly radio show that broadcasted cultural items from around Papua (Ibrahim 2021). The show and Mambesak's live performances and recordings (released on cassette) were wildly popular (Smythe 2013), and understandably so when considered in the context of the cultural erasure to which West Papuans had been subject since Indonesian occupation. Indeed, not long after the Indonesian takeover, reported human rights activist Carmel Budiardjo, Indonesia gathered Papuans from diverse geographical locations to witness a mass burning of Papuan cultural artefacts, symbolising a “burning of ‘their colonial identity’” (cited in Ibrahim 2021). Despite Mambesak's songs containing few explicitly political lyrics, Indonesian authorities recognised

the inherently subversive nature of Ap's work. Ap celebrated West Papuan cultures (rather than one "Indonesian" culture) and in doing so—through travel, live performance and radio—helped to create out of numerous Indigenous expressive practices a unifying spirit of West Papuanness, as opposed to Indonesianness, across the territory. The capacity of performance to build identity, including political identity, is a characteristic of Melanesian cultures (as it is of other Pacific cultures and Indigenous cultures elsewhere). One *becomes* West Papuan and can even experience a transitory freedom from Indonesian rule through participating in communal song and dance (Smythe 2013). Ap's nation-building work, intertwining performance elements of various West Papuan Indigenous cultures to bring the peoples of the territory together, was so potent that he was imprisoned and executed by the Indonesian military in 1984.

While Ap was reclaiming vestiges of vanishing Indigenous West Papuan cultures for national posterity, the iconic West Papuan rock-reggae fusion band the Black Brothers, formed in 1974 in Jayapura, West Papua, was making waves across West Papua and throughout the Pacific, stirring nationalist sentiment via what James Clifford terms the phenomenon of "indigènitude" (2013: 16). Indigènitude, according to Clifford, is an identity politics formed out of "a concatenation of sources and projects" that draw on local Indigenous traditions as well as a more generalised, transnational idea of indigeneity (p. 16). The Black Brothers, whose songs called for independence from Indonesia, made use of indigènitude's "symbolic repertoire" (p. 16), signalling in performances and album artwork, through warrior stances and adornment in body paint, batik tunics, feather headdresses and shell and beaded necklaces, both a pan-Melanesian and a pan-Indigenous identity. The Black Brothers' portrayal of themselves as Indigenous folk warriors, as nostalgic representatives of a prelapsarian primordialism (Niezen 2003: 11–13) (the Black Brothers also drew on elements of the global nègritude movement to galvanise black solidarity from around the world), operated politically to unite West Papuans through popular music and an identity in which they could recognise fragments, or echoes, of their own Indigenous cultures. While contributing to a burgeoning West Papuan national identity by practising strategic indigènitude, the Black Brothers, who gained international acclaim in the 1980s, were also positioning West Papuans as part of a global Indigenous movement which was beginning to gain traction in international fora such as the United Nations and to find appeal among a Western public partial to the broad romanticisation of indigeneity (Niezen 2003: 52).

AN INDIGENOUS NATION WITHOUT A STATE:
COULD INDIGENOUS RIGHTS OFFER A PATHWAY TO STATEHOOD OR
EVEN NEGATE THE NEED FOR A STATE?

Through the efforts of culture bearers and producers such as Ap and the Black Brothers and Indigenous West Papuan politicians swelling the ranks of the Organisasi Papua Merdeka (OPM—Free Papua Movement), which used guerrilla tactics and diplomatic methods to fight for independence from Indonesia, the nascent West Papuan nation born at the end of the Dutch administration came of age. Crafted from elements of Indigenous cultures from around West Papua and a creative deployment of indigènitè and promulgated through popular culture and media, West Papuan nationalism was also fuelled by the systemic violence of Indonesian occupation. Unable to assert legitimacy by quashing West Papuan cultures and imposing its own (through transmigration; see, e.g., Gietzelt 1989; Kymlicka and Straehle 1999: 74), Indonesia governed Papuans through repression, using techniques of political imprisonment, torture, mass killing, starvation and a ubiquitous military presence (Brundige *et al.* 2004). Between 1970 and 1980, the colonised territories of Melanesia (excluding West Papua and French-occupied Kanaky) were realising statehood (Fiji in 1970, Papua New Guinea in 1975, Solomon Islands in 1978 and Vanuatu in 1980). West Papua anticipated its turn. Resource rich—West Papua is home to the world’s largest gold and copper mine (Leith 2002)—and therefore capable of being economically self-sufficient, politically organised through the OPM (Ondawame 2010), skilled in international diplomacy (Kluge 2020) and claiming a vast territory as their own (Webster 1999: 1), West Papuans awaited only international recognition of their sovereignty to secure their statehood. However, several factors conspired against Papuans in this quest. First, the United Nations considered the outcome of the 1969 sham Act of Free Choice to be enshrined in law³ and gave no indication it would revisit its decision. Second, West Papuans struggled to gain support from likely allies among the former colonies-turned-states of Africa and Asia due to Indonesia’s influential and powerful position among a group of 49 African and Asian states that had participated in the 1955 Bandung Conference. This conference founded the movement of Third World non-alignment and pursued an agenda of anticolonialism and anti-interventionism in state sovereignty (Burke 2006). Indonesia’s leadership role in the movement served to obfuscate its own colonisation of West Papua. As well, many of the territories closer to home in the Pacific that had been fellow states-in-waiting with West Papua but had by now become sovereign states had doubled down on domestic political agendas to shore up their own state sovereignty and deal with the teething problems inherent in inceptive state-making and thus had little time to focus on unfinished decolonisation further afield (Webb-Gannon 2021: 154).

The rise of global neoliberal capitalism in the 1980s and 1990s signalled the decline, it seemed at the time, of ethnonationalist-state claim-making (Guéhenno 1995; Kymlicka and Straehle 1999: 67; Nimni 2010: 22). In literary and political theory, the world was largely, although prematurely and confusedly (Shohat 1992: 103), considered “postcolonial” (Xie 1997: 8). Correspondingly, in the 1980s and into the 1990s, several powerful West Papuan activists had become disillusioned with what appeared to be the futile quest for nation-state sovereignty and began to turn their attention to the relatively new global Indigenous rights movement. Indigenous internationalism was a social movement that emerged from this increasingly globalising world, a world reluctant to recognise new states but willing to accord significance, and political power even, to sub- and supra-national groups posing little threat to the status quo of the extant international system of states. Ronald Niezen posits that following World War II, two main categories of “peoples” whose “unfulfilled yearnings for self-determination and whose ambitions at some level involve a rejection of the multicultural projects proposed by states” were identifiable: ethnic peoples and Indigenous peoples (2003: 7). Ethnonationalist groups’/peoples’ goals frequently take the form of a nation-state, writes Niezen (p. 8). Only a state, for these groups, will satisfy their longing for equality with other nations, offer them collective security and allow them to freely express their collective identity (pp. 8–9). Indigenous groups, on the other hand, link “local, primordial sentiments to a universal category” (p. 9), claiming not a “particularized identity” (like ethnic groups) but connection between Indigenous peoples nursing in common the twin grievances of settler colonialism—namely, resource extraction and economic marginalisation (p. 9). Recognition by the governing state and the world of their *special* status, not *equal* status, is their overarching political goal. While ethnonationalist groups often make their grievances known via protest and violence, Indigenous groups have tended to express their discontent through representation at international fora (p. 16). To belong to an ethnonationalist group, one must subscribe to a common creed (belonging, in other words, is identity-driven), but membership of an Indigenous group is determined at least partially by birth (that is, it has a biological basis) (p. 13).⁴

Given Niezen’s exposition of the differences between ethnic/ethnonationalist and Indigenous groups—both seeking self-determination but for different reasons, in divergent ways and with politically variant outcomes in mind—it is clear that, to date, West Papuans had more closely aligned themselves with the ambitions and practices of ethnonationalist groups than with those of Indigenous peoples, despite using Indigenous cultures and the practice of indigènitè to build their sense of group cohesion. Papuans had fervently fought for self-determination and sovereignty in the form of

their own state, wanting equality with Indonesia and other members of the international community of states, rather than recognition of special status within Indonesia. West Papuans identified with other West Papuans through a shared national culture, or creed, symbolised by the Morning Star flag, the mantra “*merdeka*” (meaning freedom/independence in Bahasa Indonesia), Melanesian identity and unified opposition to Indonesian brutality.

It was, however, as a handful of West Papuan elites were beginning to realise, potentially politically expedient for West Papuans to present themselves as Indigenous peoples instead of or as well as an ethnic group. The term “Indigenous” first emerged in legal and political discourse when it was included in the International Labour Organization (ILO) Convention (No. 107) Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (1957). By the 1980s, it had “attained an ever-widening circulation, to the point where it [was] no longer a specialized legal term but [was] recognized by a lay audience” (Niezen 2003: 3) and applied self-referentially by the world’s “first peoples” to “promote and protect their rights” (p. 4). No formal UN definition of Indigenous peoples exists, but the definition provided in a 1987 UN report by José Martínez Cobo is commonly invoked:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present nondominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems. (Martínez Cobo 1987: 29)

Under this definition, these innovating activists reasoned, West Papuans as a body politic could as aptly fit the criteria of indigeneity as of ethnonationalism. First, historical continuity with pre-Dutch and -Indonesian colonial societies had indeed been maintained. For example, despite Indonesian attempts to ban them, Indigenous languages were still spoken throughout West Papua (although numbers of speakers were on the decline) (Viktor Kaisiepo, pers. comm., 11 Sep. 2008, Amersfoort). Indigenous religions, such as Koreri on Biak Island, were still practised (Sharp 1994: 74), and “the old stories and old songs were still sung” (Oridek Ap, pers. comm., 10 Sep. 2008, The Hague). Second, distinct Papuan tribes to this day maintain their identities through their interactions with and the features of their traditional lands (Barber and Moiwend 2011). This is one of the major ways in which they distinguish themselves from Indonesian migrants who

have made Papuans a minority in many parts of their own territory (Elmslie 2017). And third, attempts to live in accordance with Indigenous “cultural patterns, social institutions and legal systems” are made by West Papuans through local customary councils (*lembaga masyarakat adat*).

Viktor Kaisiepo, a West Papuan who lived in the Netherlands until his death in 2010, was one of the first West Papuan activists to become interested in the potential of Indigenous rights for improving Papuans’ life conditions. Viktor’s father, Markus, had been a key figure in the early preparations for West Papuan independence, chair of the New Guinea Council, and a prominent organiser of West Papua activist politics while living in exile in the Netherlands (Van der Kroef 1968: 691). I interviewed Viktor in 2008 about his hope for Indigenous rights as a path towards self-determination for West Papuans. He informed me that in 1980 he became aware of the Fourth Russell Tribunal on the Rights of the Indians of the Americas that was being held in Rotterdam. The Tribunal revealed to him the plight and denial, in his words, of “collective rights of Indigenous peoples globally ... you name it, all over the world” (pers. comm., 10 Sep. 2008). Since that time, he reflected, he had viewed West Papuans’ struggle as part of a larger struggle of Indigenous peoples around the world rather than an ethnonationalist one. “This is where I differ”, he reflected, “with most of the West Papuans. Because I am not interested in West Papua as such. ... It’s not only Indonesia, it’s also Australia, it’s also [the] US, it’s also India, Brazil, you name it.” Your “cultural entity is your starting point” for independence, as is acknowledging your interdependence with other people, Viktor theorised. It was his view that if West Papuans continued to fight for an independent state, they would perish doing so, because Indonesia was unswerving in its claim over West Papua, and the international community was not receptive to Papuans’ pleas for their own state.

By switching their focus from gaining statehood to preserving their Indigenous cultures, West Papuans might just survive, Viktor believed. It was with this conviction that he became instrumental in developing the Dewan Adat Papua, or Papuan Customary Council, in Papua in 2002. The DAP, as it is known, was established, according to Viktor, to “restore the Indigenous rights in West Papua regarding their natural resources and cultural heritage”: that is, “to fight [for] cultural heritage” rather than for “political independence” (pers. comm., 2008; see also Papua Customary Council *et al.* n.d.). Using an international legal framework of Indigenous rights, Viktor hoped, would give West Papuans a benchmark against which they could hold Indonesia accountable at the international level for its treatment of them: “Now intellectually speaking, being part of the UN, Indonesia has to live up to the commitments internationally. Whether they do it or not, that’s not the point. For me, I can say listen, this is the format that you have,

you have to stand up for this”, he told me. Focusing on Indigenous rights rather than on independence would serve two purposes, Viktor reasoned. First, it would give West Papuans an opportunity to engage in a process of ownership—not of a state, but of their “destiny”, to be able to say, “I own my future, I own my past, I own my cultural heritage”. And second, by working together on this trajectory, he hoped West Papuans would realise that they would never be meaningfully independent from Indonesia nor from global capitalism—they could, rather, form a powerful interdependence with Indigenous peoples from around the world. To underscore his point about interdependence, he recounted a story of a West Papuan highlands elder who suffered a heart attack upon hearing that the New York stock exchange had collapsed. The value of the elder’s people’s resources (extracted by American mining giant Freeport-McMoRan) had plummeted on the stock exchange, and suddenly, the elder’s bank account was empty. What does independence mean anyway, Viktor asked me rhetorically, in the context of a globalised economy that allows Indigenous groups little to no control over their resources? Would it not be better for West Papuans to abandon the outmoded ideal of a nation-state in a globally corporatised world and join forces with this newly significant and emerging player in international relations—Indigenous peoples?

During the 1990s, Nancy Jouwe, also based in the Netherlands and the daughter of another prominent early architect of the West Papuan independence movement, Nicolaas Jouwe, became involved in the West Papuan Indigenous rights movement. As a feminist and young activist, she told me during an interview (12 Sep. 2008, Utrecht) that she “spoke at a couple of international fora, especially the Indigenous fora. At that time, this is the beginning of the 90s, all these UN conferences sprung up and every year there was somewhere a UN conference on something. They had the women’s decade, and then you had the Indigenous decade, and all these preliminary meetings and so during ’93 to ’97, on a yearly basis, I would go to a couple of those meetings and speak on Papuan issues.” Like Viktor, Nancy invested her activist efforts in Papuan cultural survival and resurgence rather than independence. Interestingly, Nancy’s father, Nicolaas, and Viktor’s father, Markus, were embroiled in a bitter feud over the best way to carry out the West Papuan independence campaign (Farhadian 2005: 73). The dispute among the patriarchs, according to scholar Charles Farhadian, was region-of-origin based (p. 73). Jouwe was from the Sentani region near the West Papua/Papua New Guinea border and Kaisiepo was from Biak Island on the far western side of the territory. Jouwe complained that Kaisiepo always insisted on being in charge—a typical Biaker trait, he claimed (in Farhadian 2005: 73)—and each had their own competing ideas for leading West Papua to independence. It is

perhaps no coincidence that their children, Viktor and Nancy, stepped away from the “do or die” commitment to West Papuan independence that had characterised the ethnonationalist movement for so many years and caused deep rifts among leaders. Instead, they chose to work towards what they saw as the less ideologically charged goal of accommodating and safeguarding the many Indigenous peoples of West Papua *as they were*, avoiding the demands of bringing into existence one national people in the context of the unreceptive international political climate of the day.

INDONESIA ULTIMATELY REFUSES TO RECOGNISE WEST PAPUAN INDIGENOUS RIGHTS OR STATEHOOD

Despite efforts by West Papuan activists including Viktor, Nancy and several of their peers to lobby for West Papuan Indigenous rights at the UN and to mobilise West Papuans in support of their Indigenous rights, Indonesia was unresponsive. On the one hand, this was surprising because in formally granting West Papuans Indigenous status, Indonesia could have mitigated some of the international criticism from other states and NGOs it continues to encounter over its apparent disregard for West Papuans’ right to self-determination and other human rights (see Hadiprayitno 2015: 133–35). Instead, the state has displayed contempt toward the pan-Papuan nation *and* towards Papuan Indigenous nations, seeking to eliminate the first and deny the existence of the second. On the other hand, one can perceive the logic in Indonesia’s refusal to recognise special rights for West Papuans. To do so would likely result in pressure on the state to extend the same recognition to the myriad other peoples in Indonesia⁵ meeting the criteria for indigeneity set out in Martínez Cobo’s definition. Instead, to maintain control of a sprawling, multiethnic archipelago, Indonesia works assiduously and at times ruthlessly to unify, through assimilation, the many cultural, ethnic and Indigenous identities of the peoples living within its borders. Presumably for this reason, and although it is a signatory to the UNDRIP, Indonesia has still not formally acknowledged the presence of Indigenous peoples within its borders.⁶ Instead, in its constitution and various laws that deal with natural-resource use and cultural expression, Indonesia refers to the custodians of these resources and cultures variously as customary, traditional or remote peoples (People’s Consultative Assembly 1945). The state has made “no modifications ... to account for the different socio-economic, political, and cultural differences that distinguish[] [West Papua] from the rest of Indonesia” (Bertrand 2011: 856). Indonesia’s former president Suharto once argued that either all of Indonesia’s people are Indigenous or none of them are, as nearly all its ethnic groups lived within the state’s boundaries prior to Dutch colonisation and then Indonesian independence (see Lawson 2014: 2).

This logic is problematic, however, for several reasons. First, it is internationally and legally accepted that “who is Indigenous” can only be determined by Indigenous communities themselves, not states or international organisations⁷ (Corntassel 2003: 75). Therefore, when West Papuans identify as Indigenous, Indonesia cannot, under international law, say that they are not. Second, when Indigenous groups from one part of Indonesia, for example, Java, migrate en masse to another part, for example, West Papua, appropriating the latter’s resources and cultures, as has happened under Indonesia’s massive, sponsored transmigration programme, conflict resolution options outside of those offered through an Indigenous rights framework are limited for the aggrieved party. And third, when domestic and foreign businesses exploit Indigenous resources, as Freeport-McMoRan’s gold and copper mine, BP’s gas plant, and a multitude of overseas-owned wood-felling operations and oil-palm plantations are doing in West Papua (see Ballard 2002 for examples), Indigenous peoples have no legal recourse *as Indigenous peoples* to advocate for themselves. At a very basic level, Indonesia’s claim that all its peoples are Indigenous⁸ in the sense that their existence predates current nation-state boundaries might be true, but using this logic to argue that they therefore do not need specially recognised Indigenous rights is highly problematic in the context of intra- and interstate migration and foreign depredatory business practices. It also gives Indonesia scope to continue its exploitation and occupation of West Papuan peoples and resources whilst evading international accountability frameworks.

Indonesian Accommodation

Jacques Bertrand argues that a key reason West Papuans have had such little success in pressuring Indonesia to recognise their status as Indigenous peoples is because they have simultaneously “maintained demands as a nation” (2011: 852). But given the danger West Papuans are faced with in living as West Papuans in West Papua every day, “playing the ‘indigenous’ card” as well as the “nation card”, as Bertrand puts it (p. 852), makes sense in terms of covering all potential bases for securing human rights. Bertrand writes that West Papuans’ greatest hope of making gains in terms of achieving Indigenous rights status and treatment in Indonesia was at the time of constitutional change, during the Reformasi period in 1999 when Indonesian dictator Suharto was deposed and the state was at its most vulnerable (p. 866). According to Bertrand, West Papuans did not take sufficient advantage of this opportunity, perhaps disheartened in the face of ongoing Indonesian state dismissal of their Indigenous rights campaign (p. 852; see also Ballard 2002). Around this time, the struggle for Indigenous rights appeared to fall away while West Papuan activists pressed their claim for nation-state sovereignty more persistently than ever.

Encouraged by Indonesia's granting of a referendum on independence to East Timor, a group of 100 West Papuan leaders visited Suharto's successor, B.J. Habibie, in the presidential palace, and petitioned him directly for independence, going "all in" with the "nation card". Habibie was reportedly shocked, and at a loss for a response (MacLeod 2015: 126). In a move both *realpolitik* and seemingly progressive, Indonesia's next president, Abdurrahman Wahid, a "soft-liner" compared with his compatriots, tried to temper West Papuans' independence demands by offering regional autonomy. This offer was consolidated in a law known as Special Autonomy that came into effect in 2002, representing the closest act by Indonesia to recognising West Papuans as Indigenous people with special rights, although the text of the bill never uses the term "Indigenous". An all-Papuan team was established to assist in formulating the arrangement, and the draft developed by this team was "impressive", according to analyst Peter King: "It combined far-reaching measures to achieve genuine autonomy and Papua-friendly democratisation, and it also proposed rigorous measures for the protection of human rights and Papuan traditional (*adat*) rights" (King 2004: 83). The version of the law that was ultimately adopted by Jakarta, though, was far more limited and limiting. While Papuans were permitted the freedoms of flying their flag, renaming their province (from Irian Jaya to Papua), selecting a "native Papuan" governor (Indonesia Law No. 21 2001, Article 12) and establishing an all-Papuan upper house, and although the law allowed for a substantial return of resource revenue to Papua (King 2004: 83–89), it fell short of the original Papuan draft in significant ways. There was no official end to government-sponsored transmigration, no option for a new referendum on Papua's political status and no "Commission for the Rectification of Papuan History" (pp. 88–89). Even so, some prominent West Papuan leaders continued to promote the promise they saw in the law. Viktor Kaisiepo, for example, declared himself "in favour of" Special Autonomy, which, he reasoned, "simply says the neglect of West Papuans as an Indigenous part of Indonesia for the last 38 years requires a different type of approach. ... I am a supporter of that law, and I am preaching it all over the world ... that [it] is going to look after the Indigenous heritage of the West Papuans irrespective of whether they are under Indonesian control, Australian control, US control or whoever's control" (pers. comm., 2008).

The Failure of Special Autonomy as the Failure of Indigenous Rights

It was clear by 2003, however, that the Special Autonomy law was not being properly implemented and that the state will to do so did not exist. The central government delayed establishing the MRP—the all-Papuan upper house—for four years. Under Special Autonomy, the MRP alone was imbued with the power to create or reject proposals to administratively divide Papua

province. Therefore, when Wahid's successor, Megawati Sukarnoputri, made the executive decision to split the territory in two and create a Papua Barat province in Papua in 2003, before the MRP had come into existence, she was undermining the Special Autonomy law, and her actions were widely seen amongst West Papuans as a divide-and-rule tactic (Mietzner 2007: 4–7). The money flowing back into West Papua ultimately found its way into corrupt pockets of elite administrators, and with no mechanisms for accountability, these funds did nothing to better the lives of ordinary Papuans (King 2004: 90). Under Special Autonomy, militarisation increased in West Papua, Indigenous leaders were murdered with impunity, the number of political prisoners multiplied and the use of terror by security forces against Indigenous people increased (MacLeod 2015: 131–36). In 2005, the DAP led a demonstration of between 10,000 and 15,000 people who marched with a coffin marked “OTSUS” (an abbreviation of the Indonesian term for Special Autonomy: *Otonomi Khusus*) to the provincial parliament building in Jayapura (p. 147). The message conveyed was that Special Autonomy was considered dead by Papuan Indigenous people and was being handed back to the Indonesian government. When I interviewed the head of the DAP, Forkorus Yaboisembut, in 2008, he no longer held out hope for Indigenous rights being fulfilled under the governance of the Indonesian state. He told me: “Experience [has] demonstrated that even the promotion of Indigenous West Papuan rights, cultures and traditions [was] considered a separatist activity under Indonesian colonialism” and that it was no use campaigning for Indigenous rights when basic human rights were being violated. Therefore, the “pursuit of independence [in Yaboisembut's view] must precede the pursuit of Indigenous rights” (pers. comm., 2008).

In 2004, when presented with the opportunity to respond to a “critical” report on West Papua tabled at the UN Permanent Forum on Indigenous Peoples, instead of commenting on the allegations, Indonesia simply stated that West Papuans were not Indigenous (Hadiprayanto 2017: 21) and that therefore the report had no standing. It is evident that Indonesia signing the 2006 UNDRIP has done little to improve the plight of West Papuans. This is glaringly obvious in several major mining and agrobusiness ventures in West Papua which have wreaked havoc in Indigenous communities. Anthropologist Chris Ballard (2002) describes how the exploitation of West Papuan copper, gold, gas, oil and timber by extraction and plantation industries has placed immense pressure on Indigenous lands: “The way in which these industries acquire land and exploit resources that West Papua's indigenous people consider theirs is one of the most important sources of local conflict and fuels the West Papuan desire for independence from Indonesia”, he contends. “In theory”, a joint DAP submission to the Universal Periodic Review of the United Nations Human Rights Council (Third Cycle)

13th Session states, “indigenous landowners have the right to legal recourse through the Basic Agrarian Law 1960 but can only attempt to claim land where the court deems such a claim would not impede national interest. As a result, there is no provision of legal protection for indigenous communities by the state” (Papua Customary Council n.d.). Ballard (2002) cites this lack of legal remedy for Indigenous landowners as the reason many Papuan communities concede to deals with government agencies and businesses that are highly exploitative—Papuan do not feel they have any alternative.

The Merauke Integrated Food and Energy Estate (MIFEE), an Indonesian government sponsored mega-agribusiness project in Merauke, West Papua, is a case in point. MIFEE analyst Irene Hadiprayitno describes the project as a 1.2-million-hectare plantation launched in 2010 for “cash crops and biofuels ... [that was] designed as an integral part of the Master Plan for Acceleration and Expansion of Indonesian Economic Development ... [and] launched by [former] Indonesian President Susilo Bambang Yudhoyono” (2015: 129). In 2017, Hadiprayitno found that MIFEE had “attracted investments from 36 companies” (2017: 16). A detailed investigation undertaken by the Gecko Project and Mongabay, both environmental advocacy journalism organisations, focusing on exploitation of the Marind-Anim people of Merauke by the Korindo Group, a “privately owned conglomerate that had been logging Indonesia’s rainforests since the 1970s”, found a gross violation of the UNDRIP principle that users of Indigenous peoples’ resources obtain “free, prior and informed consent” from those people (Gecko Project and Mongabay 2020; United Nations 2006; Chao 2019). In many instances, permission to use lands has never been sought from appropriate Indigenous leaders. In others, promises of oil-palm smallholdings were made but never kept. Negotiations with Indigenous communities took place with security forces present, and communities were coerced to hand over their lands. In some cases, local people did not understand that their customary land would revert to state ownership after the expiry of leases: “They didn’t know that land would never be returned to them” (Gecko Project and Mongabay 2020). The Indonesian state’s presence is felt not as a protector of Marind rights but as an enforcer of exploitative business practices. In the meantime, biodiversity is being demolished. The Marind people, according to Marind activist Rosa Moiwend and her fellow researcher Paul Barber, “identify themselves with the natural features of the land and environment” (Barber and Moiwend 2011: 45). They “recognise their ancestors and their ancestral lands through the presence of specific symbols such as trees, bamboo plants and the like” (p. 46). It is probable, they contend, that “the next generation of [Marind] people will no longer sing: ‘I grew up together with the wind, together with the leaves, together with the sago, together with the coconut trees.’ Instead, they will sing: ‘I grew up without the wind, without the leaves,

without my sago village. I know nothing about my *Dema*, the symbol of my tradition, my language, my homeland. I will no longer be able to talk about my origins. All I will be able to say is that Papua is the land of my ancestors, the land where I was born” (p. 49).

WEST PAPUANS ENACT SELF-DETERMINATION, PURSUING A STATE
WITH AN INDIGENOUS WEST PAPUAN IDENTITY

Even if Indonesia did acknowledge the jurisdiction of the UNDRIP over West Papuans, the sovereignty entailed in the Declaration is perceived by West Papuans as insufficiently comprehensive. The UNDRIP merely “limits the unilateral sovereign power of the state over indigenous collectives”, legitimising “non-state challenges to the total authority of the state” (Nicol 2017: 796–97). It may not, as the Declaration states, be “construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States” (UNDRIP 2006, Article 46). While this may be a moot point for many Indigenous peoples operationalising the UNDRIP, Niezen (2003: 203) writes that “Indigenous peoples ... do not as a rule aspire toward independent statehood” (see also Graham and Wiessner 2012: 410). This caveat to self-determination poses a serious problem for West Papuans wishing to secure their future existence as a national people and as Indigenous peoples in their own state by invoking international Indigenous rights law. Thus, when appealing to international law, West Papuans tend to hang their hopes on an earlier UN declaration—the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples—and on two covenants which, having the advantage of being legally binding for those who have ratified them (declarations, by contrast, are not), also “provide for secession as an option in situations in which states are violating a people’s basic human rights and fundamental freedoms” (Niezen 2003: 204): the 1966 ICESCR and the 1966 ICCPR (see Ondawame 2010: 29). In addition to these laws, West Papuan politician and academic Otto Ondawame cites Resolution 1541 (XV) of the UN General Assembly, 1960—Right to Self-Determination, which sets out the criteria for non-self-governing territories to become fully independent nation-states (2010: 29). The Resolution states that “the integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes” (United Nations 1960: Annex, Principle IX).

Following the directive in Resolution 1541, West Papuans have recently begun to establish an advanced form of self-government. David Webster described West Papua as a “notion-state” in 2002 (p. 527), and West Papuans as a people who had avoided colonisation of the mind if not of governance.

But this designation was made before West Papuans had united their various independence-seeking factions under the United Liberation Movement of West Papua (ULMWP) in 2014. Since 2014, Papuans have demonstrated determination to become more than just a “notion-state”, actively practising sovereignty under the governance of the ULMWP despite the absence of Indonesian recognition of their nation or of their Indigenous peoplehood. In 2020, the ULMWP announced it was forming a “Provisional Government ... to mobilise the people of West Papua to achieve a referendum on independence, after which it will take control of the territory and organise democratic elections” (United Liberation Movement for West Papua 2020). Benny Wenda, a West Papuan activist living in exile in England, was declared interim president of the Provisional Government, and a provisional constitution was drafted. In 2021, 12 departments and cabinet positions were created, although ministers’ names were not announced due to “intense political repression [by] the Indonesian regime” (United Liberation Movement for West Papua 2021). For decades, West Papuans had waited for recognition from Indonesia and from the international community of states in order to start acting like a state.⁹ In 2020, they took matters into their own hands and began practising statecraft in self-recognition of their sovereignty.

The Provisional Government has incorporated Indigenous priorities in its vision for West Papua, identifying West Papua as the world’s first intentionally Green State. Interim president Wenda has stated his vision thus:

Before Dutch and Indonesians arrived, there was a green state already, before Europeans colonised us. [We were] friends with the mountains, friends with the river ... We didn’t have the culture of cutting the trees and mak[ing] palm oil plantations, [of] irrigat[ing] massive areas and plant[ing] the rice, [of] pollut[ing] the river to destroy the huge mountain. River is our pool, we are all connected between mountain ... The greediness of the modern world is destroying our nature, our culture, our identity. Our mission is to liberate ourselves from the Indonesian colonialism. We need a vision for the future of where we are heading. We want to say to the world that we have a provisional government and a vision to match it. We want to restore the balance. If we want to save the planet, West Papua is a solution. West Papua is a lung of the world. Restore the damage by the company working with the Indonesian government. (Benny Wenda, pers. comm., 14 Sep. 2021)

This more-than-notional state has presented a policy combining the rhetoric of indigènitè with a proposal for addressing one of the world’s current and foremost concerns—climate change. West Papuan Indigenous ways of life and practices have been desecrated under Indonesian rule, but the Provisional Government is keen to signal that West Papuan sovereignty asserts a very different approach.

Despite the difficulties West Papuans have faced thus far in their attempts to pursue self-determination/state sovereignty using international Indigenous rights infrastructure, primarily because Indonesia refuses to acknowledge that West Papuans are Indigenous, the ULMWP maintains a presence at pertinent fora. Its representatives take advantage of any opportunity they can to be heard, although still with limited success. For example, in 2016 and in 2019, the ULWMP sent West Papuan representative John Anari as its ambassador to the UN Permanent Forum on Indigenous Issues. In 2019, Anari made an intervention in the Forum during a session which had convened to discuss selection criteria for Indigenous representation at the UN. Part way into presenting the history of the UN's betrayal of West Papua in 1969, he was twice interrupted by the Forum's chair for being "off-topic", and his chance to speak was revoked (West Papua Liberation Organization 2021). ULMWP representative Herman Wainggai also attended a UN General Assembly session in 2019. When invited to speak, he identified himself as a West Papuan Indigenous leader concerned that "West Papua, as an Indigenous people, we're still living under the situation that the Indonesian government doesn't recognise our right as Indigenous people" (Wainggai 2019). He continued, "We encourage, in this forum, the United Nations ... state members to let Indigenous people exercise their rights in their own country" (Wainggai 2019). When an Indonesian delegate was asked to respond to Wainggai, the delegate replied that his delegation was "compelled just to note again [Indonesia's] disappointment that this forum remains used by certain individuals that raise the agenda of which is not due to be discussed at this meeting. We regret that once again this forum has been used for baseless propaganda against the purposes of and principles of the Charter of the United Nations" (see Wainggai 2019). These sorts of exchanges, in which Papuans are rebuked for raising the injustice of their situation, reinforce West Papuans' belief that Papuan state sovereignty is a precondition for the recognition of Papuan Indigenous sovereignties at the international level and the realisation of the same at the local level.

CONCLUSION

Indonesia refuses to recognise the presence of Indigenous peoples within its state borders, ergo, it does not consider the first peoples of West Papua to be Indigenous. While it is straightforward enough to argue that Indigenous status is something that is self-designated, i.e., only West Papuans—not Indonesians—can decide whether they are Indigenous, this is cold comfort to West Papuans who, living under conditions of genocide (Elmslie and Webb-Gannon 2013), have no recourse under Indonesian law to the rights internationally accorded Indigenous peoples. Rather than relying solely

on Indigenous rights to limit cultural erasure and alleviate the oppression they have experienced during decades of Indonesian occupation, Papuans have followed a two-step strategy that seeks first state sovereignty for the pan-West Papuan nation (not an “Indigenous state” per se, but one with Indigenous leadership and Indigenous-friendly policies) that in turn will facilitate West Papuan Indigenous sovereignties (Webb-Gannon 2021: 66). Indigenous practices such as those Arnold Ap documented and broadcast, and the practice of indigènitude as expressed in the performances of the Black Brothers, exerted considerable influence on the formulation of a West Papuan national identity even prior to the ascent of the global Indigenous rights movement. Several West Papuan activists, however, disenchanted with the lack of response from the international community to West Papua’s ethnonationalist pursuit of a state, and with the unremitting violence experienced by West Papuans under Indonesia’s iron grip, wondered whether Indigenous rights might offer an alternative route to self-determination for West Papuans. But with Indonesia’s ongoing refusal to recognise West Papuans as Indigenous, the extent of what Papuans could achieve via representation at UN fora was limited. The Reformasi period in Indonesia engendered a renewed push for independence by Papuan activists. The resulting desultory effort from Indonesia to assuage Papuan demands in the form of Special Autonomy, a de facto acknowledgement on paper, if not in implementation, of Papuans’ Indigenous rights, was ultimately rejected by Papuans as disingenuous and unhelpful. West Papuans, instead, have progressively pursued sovereignty on their own terms, intent on establishing a state for the West Papuan Indigenous nation(s) which can then, they anticipate, honour West Papuans’ Indigenous rights. Of course, statehood offers no guarantee that all West Papua’s Indigenous peoples’ rights will be equally respected, nor that a West Papuan state would be immune from committing human rights violations against Indigenous and non-Indigenous citizens of its state (see Niezen 2003: 98–110). But then, nothing in politics is guaranteed. As long as West Papuans are entitled to self-determination, and as long as self-determination is denied them under Indonesian rule, history has demonstrated that West Papuans will maintain their pursuit of this so-far elusive right via whatever means available.

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NOTES

1. In this article, in solidarity with West Papuans who have never ceded their land, I use the term “West Papua” to refer to West Papuans’ territory.
2. West Papuan academic Elvira Rumkabu comments that outsiders frequently erroneously view West Papuans as a single entity, whereas Papua is diverse—“we cannot say that Papua is one single identity” (2022).
3. Mohammad Shahabuddin argues that “international law, as a core element of the ideology of the postcolonial state [read here, Indonesia], contributes to the marginalisation of minorities” (2020: 1).
4. Although it may also be argued that one is born into an “ethnicity” and that indigeneity practises its own sort of creed.
5. The Indonesian Bureau of Statistics identified 1,072 ethnic “codes” in Indonesia in 2020 (Aspinall 2011: 292).
6. It is worth noting that Indonesia is not alone in its reluctance to acknowledge the presence of Indigenous peoples in its state. Benedict Kingsbury describes the questioning of the relevance of such a political category to Asian countries as the “Asian controversy” in which “several governments of Asian states argue that the concept of ‘indigenous peoples’ is so integrally a product of the common experience of European colonial settlement as to be fundamentally inapplicable to those parts of Asia that did not experience substantial European settlement” (1998: 418). It is not European colonial settlement in relation to which West Papuans are claiming Indigenous status, though, but Asian-Indonesian colonisation, so pleading along the lines of the so-called Asian controversy probably does not exonerate Indonesia from its own annexation of West Papua.
7. “In 1977 ... the second general assembly of the World Council of Indigenous Peoples (WCIP) passed a resolution stating that ‘only indigenous peoples could define indigenous peoples’” (Cornassel 2003: 75).
8. With the exception of Chinese people and perhaps Arabs (Bertrand 2011: 853).
9. This notwithstanding the various declarations of independence since 1971, all of which failed due to lack of internal support and factionalism.

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