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ILWP Statement on 2023 MSG Summit outcome

MSG repeats calls for United Nations visit to West Papua

On 24 August 2023, the Melanesian Spearhead Group ('MSG') repeated their call for the Office of the United Nations High Commissioner for Human Rights ('OHCHR') to "conduct a mission to West Papua and the Papuan Provinces"¹ and urged the Pacific Islands Forum ('PIF') to pursue implementation of this call as outlined in their PIF Leaders Communique of August 2019. The MSG requested that Indonesia allow the visit to take place in time for a report on human rights violations to be made available for the next MSG Leader's Summit in 2024.

The MSG is an intergovernmental organisation consisting of Papua New Guinea, Solomon Islands, Vanuatu, Fiji and the Kanak and Socialist National Liberation Front (FLNKS) of New Caledonia as Full Members, Indonesia as an Associate Member and the United Liberation Movement for West Papua (ULMWP) as an Observer Member along with Timor-Leste.

Over 85 UN member states have now called for the OHCHR to visit West Papua. This includes the 18 member states of the Pacific Islands Forum (PIF), the 79 members of the Organisation of African, Caribbean and Pacific States (OACPS), the European Commission, and individual states including the United Kingdom and the Netherlands.

On 10 October this year, Mr Volker Türk, the current UN High Commissioner for Human Rights made these remarks at the Third Committee of the UN General Assembly:

*"Grievances linked to discrimination, exploitation, repression and injustice of all kinds make violent crisis far more likely. And assisting States and our partners to prevent crisis, by curbing and eliminating human rights violations and abuses, is the major task of my Office."*²

¹ 22nd MSG Leaders' Summit "MSG, Being Relevant and Influential" 23-24 August 2023, Communique <https://msgsec.info/wp-content/uploads/documentsofcooperation/2023-Aug-23-24-22nd-MSG-Leaders-Summit-Communique.pdf>

² Statements and Speeches, Office of the High Commissioner for Human Rights, <https://www.ohchr.org/en/statements-and-speeches/2023/10/general-assembly-turk-urges-support-human-rights-and-international> 10 October 2023



On 4 July 2023, Ms. Alice Wairimu Nderitu, Under-Secretary-General, Special Adviser to the Secretary-General on the Prevention of Genocide stated that:

“In Indonesia, the human rights situation in Papua remains deeply concerning. This includes alleged harassment, arbitrary arrests, and detention of Papuans and non-recognition of the rights of indigenous Papuans that has enabled the alleged appropriation of indigenous lands. Humanitarian assessment and assistance as well as a genuine, inclusive dialogue to address underlying grievances is encouraged.”³

As violence in occupied West Papua escalates, including severe violations of human rights and international humanitarian law, this visit should be a priority for the OHCHR. In Geneva and New York, country missions of the 85 member states must continue to request updates from the OHCHR regarding the timing and planning for this visit. This year the OHCHR has visited over 10 locations and we call on them to add West Papua to this list as soon as possible.

Over 120 UN member states have open invitations to the OHCHR and the UN Special Procedures and access issues are rarely encountered. As a UN member state, Indonesia is subject to the same human rights monitoring as other states. Indonesia’s continued refusal to enable a visit should raise grave concerns about the example Indonesia will set as a member of the UN Human Rights Council (2024-2027)

When it happens, the OHCHR visit must be open and transparent, following the Revised Terms of Reference for country visits (2016), including unsupervised discussions with West Papuan representatives and human rights defenders. On the 75th anniversary of the Universal Declaration of Human Rights, when and how this visit goes ahead is a core test for the functionality of human rights and the wider United Nations system.

ULMWP MSG membership application

Since 2015, the ULMWP has sat as an observer member of the MSG, applying for Full Membership in 2016. A ULMWP application to move from Observer Member to Full Member was not taken forward at this Summit.

³ 53rd Session of the Human Rights Council, Interactive dialogue with the Special Adviser on the Prevention of Genocide (as per HRC/RES/49/9, 2022) Geneva, 4 July 2023 Remarks by Ms. Alice Wairimu Nderitu
https://www.un.org/en/genocideprevention/documents/Remarks_Alice%20Wairimu%20Nderitu_Special%20Adviser_53rd_Session_HRC_Interactive_dialogue%20.pdf



Since its creation in 1988, the MSG has been committed to “the entire decolonization and freedom of the Melanesian countries and territories.” The 2007 Agreement Establishing the Melanesian Spearhead Group⁴ includes references to membership criteria and decision-making processes.

This year, the ULMWP application was considered at the pre-summit Senior Officials Meeting, the Foreign Ministers Meetings and then in the Leaders’s meeting.

Based on comments made afterwards, it appears there were concerns raised about ULMWP’s ability to meet various MSG membership criteria and the differences between ULMWP’s decolonisation process and the ongoing process in New Caledonia, relevant to current MSG Full Member FLNKS. Without the reasoning being made public, it is difficult to comment on this, however ULMWP appears to meet the membership criteria and differences in the decolonisation process, including regarding West Papua’s current absence from the United Nations “Special Committee on Decolonization” list are not necessarily relevant for the purposes of the MSG membership application. West Papua was listed as a Non-Self Governing Territory by the United Nations until 1962, and its current absence from the “Special Committee on Decolonization” list is a historic legal and procedural anomaly.

Although the Communique from the Leader’s Summit refers to MSG membership being open only to “sovereign and independent states with the special arrangements for the FLNKS” this restriction is not evident in the 2007 Agreement. The Agreement explicitly envisages non-sovereign entities as part of the MSG as Full Members. However, the Leader’s Summit is the preeminent decision making body of the MSG, decisions are taken by consensus and consensus could not be reached on the ULMWP application.

MSG members future support for a further ULMWP bid for Full Membership would not violate international law or the MSG’s own rules and arrangements as they currently stand. In fact, the international law of self-determination, as well as international human rights law, arguably compel the current members to offer their support to the ULMWP.

A ULMWP application could be considered again in subsequent meetings. However, the membership guidelines are being refined and these revisions may make the ULMWP more or less eligible for Full Membership.

⁴ Agreement establishing the Melanesian Spearhead Group. Port Vila, 23 March 2007
<https://msgsec.info/documents-of-cooperation/>



The Leader's Communique also called for a 'Constructive Engagement Platform', consisting of a form of dialogue arrangement with Indonesia about West Papua during future Senior Officials Meetings.

Self Determination

The people of West Papua have the right to self-determination, a right which was denied to them in the 1960s. Based on international law principles set down by the International Court of Justice ('ICJ'), Indonesia is unlawfully occupying West Papua and has an obligation to immediately give effect to the West Papuan people's rights. All states have an obligation to assist to end colonisation and unlawful subjugation and assist the West Papuan people to give effect to their right to self-determination, a "sacred right" protected under the UN Charter. The West Papuan people are entitled, under international law, to protest this unlawful occupation and take action to give effect to their rights.

International Lawyers for West Papua (ILWP)

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