

Papua Problems in the Review of Constitutional Law

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Abstract

The Papua problem is a dispute in the Papua region, Indonesia. beginning in 1961. In 1962, the Netherlands agreed to relinquish the temporary UN administrative area, signing the New York Agreement, which included provisions for a referendum to be held before 1969. On August 15, 1962, the New York Agreement was obtained which contained the handover of western Papua from the Netherlands via United Nations Temporary Executive Authority (UNTEA). On May 1, 1963, western Papua returned to Indonesia. In this scientific article, the type of research used is Normative Legal Research. Normative Legal Research is a scientific research approach that aims to find the truth based on scientific logic from a normative point of view. This approach involves researching various library materials, literature, and secondary data to produce legal rules, legal principles, and other legal doctrines. The implementation of terrorist status is in accordance with Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism, where every organization or person who commits massive violence can be categorized as a terrorist. Every action carried out by the Armed Criminal Group, including the Papua dispute and the birth of the Free Papua Organization, whatever the name of the organization or the people affiliated with or involved with it, is a terrorist act. The Indonesian Government's political will to deal with Papua seriously began in 1999, which was marked by President Abdurrahman Wahid giving the name Papua to replace Irian Jaya). The government also designated Irian Jaya Province as a special autonomous region, which is explicitly stated in the MPR RI Decree Number IV/MPR/1999 concerning Outlines of State Policy for 1999-2004, Chapter IV letter G, point 2. Following up on the mandate of the MPR Decree, the DPR on October 22 2001 approved and enacted Law Number 21 of 2001 concerning Special Autonomy for Papua Province.

1. Introduction

The Papua problem is a dispute in the Papua region, Indonesia. Beginning in 1961, the Dutch desire to form a West Papuan state independent of Indonesia emerged.¹ In 1962, the Dutch agreed to give up the temporary UN administrative area, signing the New York Agreement, which included provisions for a referendum to be held before 1969.

The New York Agreement² was an agreement initiated by the United States in 1962 for the transfer of power over West Papua from the Netherlands to Indonesia. The New York Agreement was motivated by Indonesia's efforts to seize the western part of Papua from the Dutch. At the Round Table Conference (KMB) in The Hague during the recognition of Indonesia's sovereignty by the Netherlands, it was stated that the problem of western Papua would be resolved within one year of the KMB. However, until 1961, it was not resolved.

On August 15 1962, the New York Agreement was obtained which contained the handover of western Papua from the Netherlands through the United Nations Temporary Executive Authority (UNTEA). On May 1, 1963, western Papua returned to Indonesia. The position of western Papua became more certain after the Popular Opinion Determination (PEPERA) was held in 1969, the people of western Papua chose to remain within the Republic of Indonesia.

The changes to the 1945 Constitution had an impact on the Indonesian constitutional system and development, and also had implications for the teaching of Constitutional Law, because Constitutional Law as a branch of legal science has the main source of law, namely the Basic Law or also known as the Constitution. The Constitution is the highest basic norm in a country that can describe a country's constitutional system. Like the legal, political, economic and social systems of a country, the constitution also regulates the relationship between state institutions, government structure and the relationship between the state and its citizens.

Various constitutional changes require broader and deeper studies. Moreover, currently these norms are in the process of consolidation to adapt the system of rules and institutional systems that existed and were created before the changes to the 1945 Constitution.³

Regarding terrorism in Indonesia, one issue that is still hotly discussed is the Papua dispute and the birth of the Free Papua Organization. Papua is located in the easternmost region and was included in the Unitary State of the Republic of Indonesia on 19 November 1969 through a United Nations resolution. This is also an acknowledgment of Papua's integration into Indonesia according to international

¹ *Papua als Teil Indonesiens*". *Indonesia-portal.de*. Diarsipkan dari versi asli tanggal 2011-07-19. Diakses tanggal 2011-04-15

² *Text of 1962 New York Agreement*

³ Dian Aries Mujiburohman, *PENGANTAR HUKUM TATA NEGARA*, STPN Press, 2017, hal v

law. Papua then became a legal autonomous region for Indonesia in the same year through Law Number 12 of 1969 concerning the Establishment of the Autonomous Province of West Irian and Autonomous Regencies in West Irian Province.⁴

The implementation of this status is in accordance with Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism, where every organization or person who commits massive violence can be categorized as a terrorist. Every action carried out by an Armed Criminal Group, whatever the name of the organization or the people affiliated with or involved with it, is a terrorist act.

The designation of Armed Criminal Groups as terrorists invites pros and cons, because some believe that implementing this status could lead to increased violence in Papua and innocent civilians could be affected, so the government is asked to take another approach. Separatist movements that develop into terrorists, however, cannot be justified because they can threaten the sovereignty and integrity of the Unitary State of the Republic of Indonesia. The implementation of the status of the Free Papua Organization as an Armed Criminal Group and then a terrorist is not without basis.

The Indonesian Government's political will to deal with Papua seriously began in 1999,⁵ which was marked by President Abdurrahman Wahid giving the name Papua to replace Irian Jaya and allowing the flying of the Morning Star flag as a symbol of Papuan culture and not to separate themselves from it. The Unitary State of the Republic of Indonesia (NKRI).⁶

This is felt to be important because it is considered part of the development of the Papuan people's complete identity which is shown by affirming their identity and self-esteem, including the possession of regional symbols such as songs, flags and coats of arms. Apart from that, the Government has also designated Irian Jaya Province as a special autonomous region, which is explicitly stated in MPR RI Decree Number IV/MPR/1999 concerning Outlines of State Policy for 1999-2004, Chapter IV letter G, point 2. Following up on the mandate Tap the MPR, the DPR on October 22 2001 approved and enacted the Law on Special Autonomy for Papua Province. This DPR decision was ratified on November 21 2001 as Law Number 21

⁴ Rumbiak, Y. P. 2005. Otonomi Khusus Bagi Propinsi Papua, Menyelesaikan Pelanggaran Hak Asasi Manusia Dan Membangun Nasionalisme Di Daerah Krisis Integrasi. Jakarta: *Papua International Education*. Hlm. 36.

⁵ Pada masa Orde Baru Pasca Pepera, penanganan Papua dinilai masih setengah hati, bahkan cenderung hanya penguasaan pusat terhadap wilayah strategis Papua. Sehingga menimbulkan gejolak dan polemik yang berkepanjangan. Kekerasan dan pembunuhan hampir mewarnai kehidupan sehari-hari masyarakat Papua. Masyarakat Papua dihadapkan pada dua pilihan yang tidak harus dipilih, karena kedua-duanya mengancam keselamatan jiwa dan harta mereka, yaitu moncong senapan TNI di depan, serta panah dan tombak militan OPM di belakang.

⁶ M. Ridha Saleh, "Saudara Presiden, Datanglah ke Papua, Kompas, 3 November 2011, hlm. 6

of 2001 concerning Special Autonomy for the Province of Papua, State Gazette of the Republic of Indonesia of 2001 Number 135.⁷

The Indonesian Government's political will to deal with Papua seriously began in 1999, which was marked by President Abdurrahman Wahid giving the name Papua to replace Irian Jaya). The government also designated Irian Jaya Province as a special autonomous region, which is explicitly stated in the MPR RI Decree Number IV/MPR/1999 concerning Outlines of State Policy for 1999-2004, Chapter IV letter G, point 2. Following up on the mandate of the MPR Decree, the DPR on October 22 2001 approved and enacted Law Number 21 of 2001 concerning Special Autonomy for Papua Province.

In this article, we will discuss the development of the Papuan dispute in constitutional law and can formulate the problem formulation, namely: How the Papuan Dispute is Development and How the Papuan Problem is in Constitutional Law and it is hoped that it will provide an understanding of the Papuan problem in the review of Constitutional Law.

2. Research Methods

In this scientific article, the type of research used is Normative Legal Research. Normative Legal Research is a scientific research approach that aims to find the truth based on scientific logic from a normative point of view. This approach involves researching various library materials, literature, and secondary data to produce legal rules, legal principles, and other legal doctrines. The focus of this research is to provide answers to legal issues and problems by referring to written norms or rules in statutory regulations. Law is defined as norms or rules that regulate behavior in society.

The type of data used is secondary data. Secondary data is non-binding and is used as a source of information to explain the issues and problems being studied. Sources of this data include literature, draft laws, journals, research results, reading books, and other legal works. Data collection was carried out through Literature Study, which is a method that uses literature study of various legal materials, including primary, secondary and advanced secondary legal materials. This approach allows researchers to examine and relate legal materials to the issues and problems being studied. After the data was collected, the researcher applied the Qualitative Data Analysis Method. The secondary data collected was analyzed starting from material content, explanations in secondary data, to related literature. This analysis aims to connect the data with the issues and problems that are the focus of the research.

3. Results and Discussion

Development of the Papuan Dispute

⁷ Mohammad A. Musa'ad, op.cit., hlm. 359-360.

In December 1949, at the end of the Indonesian National Revolution, the Dutch agreed to recognize Indonesian sovereignty over the former Dutch East Indies, with the exception of western Papua, which the Dutch continued to recognize as Dutch New Guinea.

The Dutch East Indies or Dutch East Indies (Dutch: Nederlands(ch)-Indië) is a Dutch-occupied region whose territory is currently known as the Republic of Indonesia. Based on the Anglo-Dutch Treaty of 1824, the Dutch had ceded Dutch Melaka to the British, which had previously been a governorate in the Dutch East Indies. This has consolidated modern governance to the Malaysian state of Melaka. The Dutch East Indies were formed as a result of the nationalization of the colonial lands of the Vereenigde Oostindische Compagnie (VOC), which were under Dutch rule in 1800.

The term "Indonesia" began to be used for the geographical place after 1880. In the early 20th century, local intellectuals began to develop the idea of Indonesia as a state and nation, and set the stage for the independence movement.⁸

The Japanese occupation in World War II weakened most of the colonial countries and the Dutch economy. After Japan surrendered in August 1945, Indonesian nationalists declared the independence they fought for during the Indonesian National Revolution that occurred in the following months. The Netherlands officially recognized Indonesia's sovereignty at the Round Table Conference in 1949 and ceded all of its former colonies, with the exception of Papua (Dutch New Guinea), which was ceded to Indonesia 14 years later in 1963 under the terms of the New York Agreement at UN Headquarters.

Papua (formerly West Irian or Irian Jaya), or sometimes West Papua or West New Guinea to differentiate it from Papua New Guinea, is a territory of the Republic of Indonesia located in the western part of Papua Island.

Before being named "Irian Jaya",⁹ this area was known as "Papua". The name "Papua" was originally used by the Portuguese sailor Antonio d'Arbrau, who landed on this island in 1521. It is estimated that the word "Papua" comes from the ancient Malay word "pua-pua", which means "curly". This name was later used by Antonio Pigafetta who took part in a voyage with Ferdinand Magellan around the earth.

⁸ Robert Elson, *The idea of Indonesia: A history* (2008) hlmn 1-12

⁹ Provinsi Irian Jaya adalah perubahan dari nama Irian Barat yang dilakukan oleh Presiden Soeharto tahun 1973, dan kemudian diganti menjadi Papua tahun 2000 dibawah Presiden Abdurrahman Wahid untuk menanggapi tuntutan para nasionalis Papua. Di Tahun 2003, Provinsi Irian jaya Barat, yang kemudian diubah menjadi Papua Barat dibentuk. Banyak nasionalis menggunakan istilah West Papua atau Papua Barat untuk menyebut seluruh bekas daerah jajahan Belanda *West New Guinea* (Nugini Barat). Istilah lain yang tidak mengandung muatan politik yang kadan dipakai untuk menyebut daerah ini yaitu "Tanah Papua", dan tidak punya makna hukum apa-apa. [Lihat: *Asia Report N 232*, Indonesia, Dinamika Kekerasan di Papua, (Jakarta: *International Crisis Group*, 2012), hlm.4

Another version of the name Papua is from Eastern Papua, now Papua Nieuw Guinea. The term "Nieuw Guinea" was used by Dutch sailors, using the name of a Spanish sailor, Ynigo Ortiz de Retes, who visited the northern area of this island in 1545. It was called "Nieuw Guinea" because the residents they met were black, like the residents on the Guinea Coast, Africa.

M.T. Walker and J.R. Mansoben¹⁰ noted that the diversity of the Papuan people is closely related to the socio-economic adaptation patterns of the population in the main ecological zone. There are at least four main ecological zones. First, the ecology of swamps, coastal areas and river estuaries; second, coastal plain; third, mountain foothills and small valleys; and the four high mountains. The ecological environment which influences adaptation patterns is reflected in the livelihood system, including technology and the division of labor system. The more complex technological innovations and division of labor systems are, the more complicated other cultural aspects such as social organization and ideological systems (religious rituals) are.

This region is divided into six provinces, namely the provinces of Papua, West Papua, Mountain Papua, Central Papua, South Papua and Southwest Papua.

The nationalist Indonesian government argued that it was the successor state of the Dutch East Indies and wanted to end the Dutch colonial presence in the archipelago.

The Dutch argue that the Papuans are of a different ethnicity¹¹ and that the Dutch will continue to manage the region until they are able to determine their own destiny.¹²

From 1950 the Netherlands and Western countries agreed that Papua should be given independence as a country, but due to global considerations, especially the Kennedy administration's concerns about keeping Indonesia on their side in the Cold War situation, the United States pressured the Netherlands to sacrifice Papuan independence and hand over to be merged with Indonesia.¹³

The Papua problem is a dispute in the Papua region, Indonesia. Beginning in 1961, the Dutch desire to form a West Papuan state independent of Indonesia emerged.¹⁴ President Soekarno opposed this step by the Dutch by getting closer to communist countries, especially the Soviet Union. Sukarno's attitude frightened the Dutch and United States President John F. Kennedy.¹⁵ Because if that is allowed, Indonesia is very likely to become the largest communist country in Southeast

¹⁰ Agung Djojosoekarto, dk, *Kinerja Otonomi Khusus*, (Jakarta: Kemitraan, 2008), hlm. 6.

¹¹ Singh, Bilveer (2008). *Papua: Geopolitics and the Quest for Nationhood*. Transaction Publishers. hlm. 61-64

¹² Penders, Christian Lambert Maria (2002). *The West New Guinea Debacle: Dutch Decolonization and Indonesia, 1945-1962*. University of Hawaii Press. hlm. 154

¹³ Bilveer Singh, page 2

¹⁴ *Papua als Teil Indonesiens*". *Indonesia-portal.de*. Diarsipkan dari versi asli tanggal 2011-07-19. Diakses tanggal 2011-04-15

¹⁵ "Free Papua Movement (OPM)". *Fas.org*. Diakses tanggal 2011-04-15

Asia.¹⁶¹⁷ This fear then made the Netherlands take a stand to hand over the Papua issue to the UN. From and through the UN, the Dutch took a stance to leave Papua and not take, seize and colonize Papua, then Papua was handed "back" to Indonesia on condition that they give the Papuan people the opportunity to determine their own position or a referendum (Popular Opinion Determination/PEPERA).

In 1962, the Netherlands agreed to relinquish the area to temporary UN administration, signing the New York Agreement, which included provisions for a referendum to be held before 1969.

The New York Agreement¹⁸ was an agreement initiated by the United States in 1962 for the transfer of power over West Papua from the Netherlands to Indonesia.

A United States Department of State summary¹⁹ from 1962 asserted "the agreement was almost a total victory for Indonesia and a defeat for the Dutch", that the United States' "Bureau of European Affairs was sympathetic to the Dutch view that annexation by Indonesia would simply trade white colonialism for brown colonialism ", and that "The fundamental reason that the Kennedy administration pressured the Dutch to accept this treaty was that they believed that Cold War considerations to prevent Indonesia from becoming Communist overrode the Dutch case."

The New York Agreement was motivated by Indonesia's efforts to seize the western part of Papua from the Dutch. At the Round Table Conference (KMB) in The Hague during the recognition of Indonesia's sovereignty by the Netherlands, it was stated that the problem of western Papua would be resolved within one year of the KMB. However, until 1961, it was not resolved.

The United States, which was afraid that the Soviet Union would become more powerful in interfering in the matter of West Papua, urged the Netherlands to hold negotiations with Indonesia. The Dutch delegation was led by Dr. van Roijen, E. Bunker, a delegation from the United States was the intermediary. The Indonesian delegation was led by Dr. Soebandrio and members Adam Malik, Sudjarwo Tjondronegoro, Lieutenant General Hidayat, Ganis Harsono, Brigadier General Djoehartono, Soegoro Atmoprasodjo (PIB), Major J.A. Dimara (GRIB), M. Indey, Albert Karubuy (GRIB, PKII), Frits Kiriho (Parna), Silas Papare (PKII) and Efraim Somisu (Parna).²⁰

¹⁶ *Protest and Punishment*" (PDF). Diakses tanggal 2011-04-15

¹⁷ "Protest and Punishment | Human Rights Watch". Hrw.org. 2007-02-20. Diakses tanggal 2011-04-15

¹⁸ *Text of 1962 New York Agreement*

¹⁹ "95/03/06 Foreign Relations, 1961-63, Vol XXIII, Southeast Asia". *Foreign Relations Series. United States Department of State*. 1995-03-06. Diarsipkan dari versi asli tanggal 2015-08-13. Diakses tanggal 2011-06-24

²⁰ *25 tahun Trikora*. Google Play Books. 1988. hlm. 156. Diakses tanggal 2021-11-01

On August 15 1962, the New York Agreement was obtained which contained the handover of western Papua from the Netherlands through the United Nations Temporary Executive Authority (UNTEA). On May 1, 1963, western Papua returned to Indonesia. The position of western Papua became more certain after the Popular Opinion Determination (PEPERA) was held in 1969, the people of western Papua chose to remain within the Republic of Indonesia.

The Indonesian military organized these elections, called the Determination of Popular Opinion in 1969 to determine the local population's views on the future of Papua and West Papua; the result is to support integration into Indonesia. In violation of the Agreement between Indonesia and the Netherlands, the vote by show of hands was performed in front of the Indonesian military, and only involved 1025 people who raised their hands and were forced at gunpoint to vote for integration with Indonesia, far less than the 1% of people who should have been eligible to choose. The legitimacy of the vote was later disputed by independence activists, who launched a protest campaign against Indonesia's military occupation of West Papua.

Determination of People's Opinion (Pepera; English: Determination of the People's Opinion or known as the Act of Free Choice; Indonesian: Free Choice Action) was a general election held on 14 July–2 August 1969 to determine the status of the western part of the island. Papua, between independence or integration with Indonesia. 1,025 men and women selected by the Indonesian military unanimously chose to join Indonesia.²¹²²

The results were recognized by the United Nations in General Assembly Resolution 2504 (XXIV). The validity of the results is still being questioned by various parties to this day.²³ The name of the Pepera is often called (Act of Free Choice) in English and is often twisted by Australian news stations into "Act of No Choice".²⁴

According to Article 17 of the New York Agreement, the plebiscite could only be held one year after UN envoy Fernando Ortiz-Sanz, Bolivia's Ambassador to the UN, arrived in West Irian on 22 August 1968.

This referendum and its implementation are described in the New York Agreement. Article 17 states:

²¹ "Breaking Free From Betrayal". *New Internationalist*. November 5, 1999. Diakses tanggal April 4, 2019

²² 48 years since the Act of No Choice". *Free West Papua Campaign*. August 2, 2017. Diakses tanggal April 4, 2019

²³ <https://referensi.elsam.or.id/wp-content/uploads/2014/10/Deklarasi-tentang-Pemberian-Kemerdekaan-kepada-Negara-Kolonial-dan-Masyarakat.pdf>

²⁴ Clarke, Tom (2017-10-09). "West Papua petition: Australia made a human rights promise that's about to be tested - ABC News (Australian Broadcasting Corporation)". *Abc.net.au*. Diakses tanggal 2018-04-14

"Indonesia will ask the Secretary General to appoint a Representative who" .. "will represent the Secretary General to provide advice, assist and participate in preparations for determining the opinion of the people which will be Indonesia's responsibility. At the appropriate time, the Secretary General will appoint a United Representative Nations that he and his staff continue their service in the region one year ahead of self-determination." .. "United Nations Envoys and their staff will enjoy the same freedom of movement as the personnel referred to in Article XVI".

The New York Agreement outlines that all men and women in Papua who are not foreign citizens have the right to vote in the Pepera. General Sarwo Edhie Wibowo instead selected 1,025 Melanesian men and women to represent the 800,000 population of West Irian.²⁵ They were asked to vote by raising their hands or reading prepared sentences in the presence of United Nations observers. They voted openly and all supported the Indonesian government. The UN accepted the results by passing Resolution 2504 in the General Assembly.²⁶ According to Hugh Lunn, a Reuters journalist, the men selected as Pepera participants were blackmailed into refusing independence. They and their family members received threats of violence.²⁷

Several diplomatic cables stated that US diplomats suspected that Indonesia would not win if the election was held honestly and fairly. They also suspect that the election was not held freely, but they view the Pepera as "undoable" and "not really in the interests of the United States."²⁸ Ortiz-Sanz wrote in his report that "the popular vote was carried out in accordance with Indonesian practice," but he did not say whether the election complied with mandated international practice.²⁹

The Indonesian government was accused of human rights violations, such as attacks on civilians and imprisoning people who raised the Morning Star flag as the national flag of West Papua because it was a betrayal of Indonesia and sympathizers of the Free Papua Organization.³⁰

Through the transmigration program, which since 1969 has included migration to Papua, about half of Indonesia's 2.4 million Papuans were born in Java, although

²⁵ 48 years since the Act of No Choice". *Free West Papua Campaign*. August 2, 2017. Diakses tanggal April 4, 2019.

²⁶ "Act of Free Choice". *West Papua Information Kit*. Diakses tanggal April 4, 2019

²⁷ "West Papua's 'Act of Free Choice' - 45 years on". *The Ecologist*. The Resurgence Trust. March 7, 2014. Diakses tanggal April 4, 2019

²⁸ Simpson, Brad, ed. (2004-07-09). "Indonesia's 1969 Takeover of West Papua Not by "Free Choice"". *National Security Archive*. Diarsipkan dari versi asli tanggal 6 January 2011. Diakses tanggal 2010-12-28

²⁹ BUDIARDJO & LIONG, WEST PAPUA, supra note 10, at 24-26. See also OSBORNE, INDONESIA'S SECRET WAR, supra note 4, at 46-48.

³⁰ Lintner, Bertil (21 January 2009). "Papuans Try to Keep Cause Alive". *Jakarta Globe*. Diakses tanggal 9 February 2009

intermarriage is increasing and descendants of transmigrants are arriving who still see themselves as "Papuan" to their parents' ethnic group.³¹

As of 2010, 13,500 Papuan refugees live in exile in neighboring independent Papua New Guinea, and are sometimes part of the spillover of fighting across the country's borders. As a result, the Papua New Guinea Defense Force has set up patrols along PNG's western border to prevent infiltration by the OPM. In addition, the PNG government has expelled "border crossers" and made a promise of no anti-Indonesian activity as a condition for migrants to stay in Papua New Guinea. Since the late 1970s, the OPM has made retaliatory "threats against PNG business projects and politicians for PNGDF operations against the OPM".³² In 1976, the 1976 Jayapura Operation took place. The PNGDF had carried out joint border patrols with Indonesia since the 1980s, although the PNGDF's operations against the OPM were "parallel".³³

In 2004, the UK-based Free West Papua Campaign was founded by exiled West Papuan leader Benny Wenda to encourage the UN to hold an Independence Referendum in West Papua. The campaign has grown to international support and endorsements from figures such as Nobel Peace laureate Archbishop Desmond Tutu.³⁴ In 2012, the Campaign issued an arrest warrant for Indonesian President Susilo Bambang Yudhoyono for a state visit to the UK in October-November that year. Yudhoyono protested that when he went to London he regularly saw many West Papuan National Flags flying which in Indonesia is illegal.

The leader of the ULMWP (United Liberation Movement of West Papua) Benny Wenda, declared the independence of "West Papua" (Papua) on December 3 2020 and is now waiting for the Indonesian government's response, especially with Joko Widodo, to discuss a solution to the Papuan dispute.³⁵ Many Indonesian politicians denied this action, especially Mahfud MD³⁶ and others.

Papuan Problems in Constitutional Law

a. Constitutional Changes

Changes to the 1945 Constitution of the Republic of Indonesia (1945 Constitution) had an impact on the Indonesian constitutional system and development, and also had implications for the teaching of Constitutional Law,

³¹ Heidbüchel, Esther (2007). *The West Papua Conflict in Indonesia: Actors, Issues, and Approaches*. Johannes Herrmann Verlag. hlm. 87–89.

³² May, Ronald James (2001). *State and Society in Papua New Guinea: The First Twenty-Five Years*. ANU E Press. hlm. 238, 269, 294.

³³ King, Peter (2004). *West Papua & Indonesia since Suharto: Independence, Autonomy, or Chaos?*. UNSW Press. hlm. 179

³⁴ Unrepresented Nations and Peoples Organization. "West Papua: Nobel Prize Desmond Tutu calls on UN to act". Unrepresented Nations and Peoples Organization. Diakses tanggal 15 May 2013

³⁵ "Press Release: Benny Wenda ready for talks; British Ambassador summoned in Jakarta; Indonesian police and military threaten action against President Wenda". *United Liberation Movement for West Papua (ULMWP)* (dalam bahasa Inggris). 2020-12-03. Diakses tanggal 2021-07-28.

³⁶ Diakses tanggal 2021-07-28.

because Constitutional Law as a branch of legal science has a main source of law, namely Laws. The Basic Law or also known as the Constitution. The Constitution is the highest basic norm in a country that can describe a country's constitutional system. Like the legal, political, economic and social systems of a country, the constitution also regulates the relationship between state institutions, government structure and the relationship between the state and its citizens.

Various constitutional changes require broader and deeper studies. Moreover, currently these norms are in the process of consolidation to adapt the system of rules and institutional systems that existed and were created before the changes to the 1945 Constitution.³⁷

Constitutional Law experienced the dynamics of very fundamental changes in the field of constitutional law starting with a multidimensional crisis which resulted in the resignation of President Soeharto on May 21 1998. Soeharto's resignation was caused by repeated and continuous protests from the people in general and students in particular, in the midst of the decline. social and economic circumstances. President Soeharto's resignation opened up space for democratization in all areas of life, various demands were voiced by the public to improve the constitutional structure, one of the public's demands was changes to the 1945 Constitution.³⁸

Sources of Constitutional Law in the formal sense are all written or unwritten legal regulations (for example conventions). Sources of law in the formal sense are: (i) constitution and statutory regulations, (ii) jurisprudence, (iii) constitutional conventions, (iv) treaties, (v) doctrine.

Regional governments have the authority to regulate and manage government affairs themselves according to the principle of regional autonomy as mandated in the 1945 Constitution of the Republic of Indonesia. This is directed at accelerating the realization of regional community welfare through improving services, empowerment and community participation, as well as increasing competitiveness. regions by paying attention to the principles of democracy, equality, justice, privileges and specificities of a region within the Unitary State of the Republic of Indonesia. The Indonesian state, explained in article 18B paragraph 1 of the 1945 Constitution, recognizes and respects regional government units that are special or special in nature.

³⁷ Dian Aries Mujiburohman, PENGANTAR HUKUM TATA NEGARA, STPN Press, 2017,hal v

³⁸ Tuntutan tersebut antara lain sebagai berikut: 1). Amandemen UUD 1945; 2). Penghapusan Dwi Fungsi ABRI; 3). Penegakan Supremasi Hukum, Penghormatan Hak Asasi Manusia (HAM) dan Pemberantasan Korupsi, Kolusi, Nepotisme (KKN); 4). Desentralisasi dan Hubungan yang adil antara Pusat dan Daerah; 5). Mewujudkan kebebasan pers; 6). Mewujudkan Kehidupan Demokrasi. Majelis Permusyawaratan Rakyat Republik Indonesia (MPR RI), Panduan dalam Memasyarakatkan UndangUndang Dasar Negara Republik Indonesia Tahun 1945; Latar Belakang, Proses, dan Hasil Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (Jakarta: Sekretariat Jenderal MPR RI, 2003), hlm. 6.

Papua Province is Irian Jaya Province³⁹ which is part of the territory of the Unitary State of the Republic of Indonesia, which has ethnic diversity and more than 250 (two hundred and fifty) regional languages and is also inhabited by other tribes in Indonesia.⁴⁰

The political decision to unify Papua as part of the Unitary State of the Republic of Indonesia essentially contains noble ideals. However, in reality, various policies in the implementation of centralized government and development have not fully fulfilled the sense of justice, have not fully enabled the achievement of people's welfare, have not fully supported the realization of law enforcement, and have not fully demonstrated respect for Human Rights (HAM) in Papua Province, especially the Papuan people. . This condition results in disparities in almost all sectors of life, especially in the fields of education, health, economics, culture and social politics.

b. Terrorism in the Papuan Dispute

Regarding terrorism in Indonesia, one issue that is still hotly discussed is the Papua dispute and the birth of the Free Papua Organization. Papua is located in the easternmost region and was included in the Unitary State of the Republic of Indonesia on 19 November 1969 through a United Nations resolution. This is also an acknowledgment of Papua's integration into Indonesia according to international law. Papua then became a legal autonomous region for Indonesia in the same year through Law Number 12 of 1969 concerning the Establishment of the Autonomous Province of West Irian and Autonomous Regencies in West Irian Province.⁴¹

The Indonesian Institute of Sciences has formulated four root causes of disputes in Papua, including indications of fraud by the Indonesian government because it does not comply with the contents of the New York Agreement regarding the integration of Papua into Indonesia through the referendum on the

³⁹ Sebelum reformasi, kawasan yang berupa bagian barat dari Pulau Papua ini –karena sebelah timur adalah Negara Papua New Guinea-bernama Irian Jaya, sebuah nama yang dipilih oleh Pemerintah Indonesia setelah kawasan ini resmi menjadi bagian dari Republik Indonesia pada 1 Mei 1962, melalui negosiasi yang alot dan sengit di forum Internasional. Nama “Irian” diperkenalkan pada Konferensi Malino pada tahun 1946. Dalam bahasa Biak, kata itu berarti “sinar matahari menghalau kabut di laut”. Presiden Soekarno menjadi penganjur utama penggunaan nama Irian, dengan mengakronimkan IRIAN sebagai “Ikut Republik Indonesia Anti Nederland”. Koentjaraningrat, Irian Jaya: Membangun Masyarakat Majemuk, (Jakarta: Djambatan, 1993), hlm. 3-5

⁴⁰ Wilayah Provinsi Papua pada saat ini terdiri atas 12 Kabupaten dan dua Kota, yaitu: Kabupaten Jayapura, Kabupaten Merauke, Kabupaten Biak Numfor, Kabupaten Mimika, Kabupaten Jayawijaya, Kabupaten Puncak Jaya, Kabupaten Paniai, Kabupaten Nabire, Kabupaten Sorong, Kabupaten Fakfak, Kabupaten Yapen Waropen, Kabupaten Manokwari, Kota Jayapura, dan Kota Sorong. Provinsi Papua memiliki luas kurang lebih 421.981 km2 dengan topografi yang bervariasi, mulai dari dataran rendah yang ber-rawa sampai dengan pegunungan yang puncaknya diselimuti salju. Wilayah Provinsi Papua berbatasan di sebelah utara dengan Samudera Pasifik, di sebelah selatan dengan Provinsi Maluku dan Laut Arafura, di sebelah barat dengan Provinsi Maluku dan Maluku Utara, dan di sebelah timur dengan Negara Papua New Guinea

⁴¹ Rumbiak, Y. P. 2005. Otonomi Khusus Bagi Propinsi Papua, Menyelesaikan Pelanggaran Hak Asasi Manusia Dan Membangun Nasionalisme Di Daerah Krisis Integrasi. Jakarta: Papua International Education. Hlm. 36.

Determination of Popular Opinion Act in 1969; violation of Human Rights; discrimination against Papuans; as well as failure to develop social infrastructure such as health, education and economic facilities for the people.⁴²⁴³

The Free Papua Organization, which is trying to separate itself from the Unitary State of the Republic of Indonesia, in fighting for its desires, carried out movements that resulted in casualties. The government responded by carrying out an initiative in the form of special autonomy for Papua with a large budget which unfortunately did not reach the wider community. This triggered a massive rebellion from the Free Papua Organization, one of whose actions took hostage a number of Europeans who were part of a research group. Two hostages from the research group were then killed and because of their actions the Free Papua Organization was deemed a criminal organization, so the term was changed to Armed Criminal Group.

The aim of the Armed Criminal Group is also the same, namely to liberate Papua from the Unitary State of the Republic of Indonesia. Armed Criminal Groups are difficult to overcome, because they use complete weapons. Several crimes committed by the Armed Criminal Group include attacks on workers, stabbings, shootings, and burning down houses and schools in several areas of Papua. The Indonesian government, although there has been no official decision, has declared the status of the Armed Criminal Group as a terrorist organization.

The implementation of this status is in accordance with Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism, where every organization or person who commits massive violence can be categorized as as a terrorist. Every action carried out by an Armed Criminal Group, whatever the name of the organization or the people affiliated with or involved with it, is a terrorist act.

The designation of Armed Criminal Groups as terrorists invites pros and cons, because some believe that implementing this status could lead to increased violence in Papua and innocent civilians could be affected, so the government is asked to take another approach. Separatist movements that develop into terrorists, however, cannot be justified because they can threaten the sovereignty and integrity of the Unitary State of the Republic of Indonesia. The implementation of the status of the Free Papua Organization as an Armed Criminal Group and then a terrorist is not without basis.

⁴² Pusat Penelitian Politik LIPI. 2011. Riset LIPI: Empat Akar Masalah Konflik Papua Penyelesaian Hanya Dengan Dialog, Tak Bisa Dengan Intervensi Kekerasan. <http://politik.lipi.go.id/in/kolom/kolom-papua/547-riset-lipiempat-akar-masalah-konflik-papua-penyelesaian-hanyadengan-dialog-tak-bisa-dengan-intervensi-kekerasan.html> Diakses tanggal 25 Maret 2022, pukul 12.03 WITA.

⁴³ Putra, O. 2020. Salah Paham Terorisme Dan Separatisme. <https://dutadamaismaterabarat.id/salahpaham-terorisme-dan-separatisme/> Diakses tanggal 25 Maret 2022, pukul 14.28 WITA.

Based on Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism, the implementation of the status of Armed Criminal Groups as terrorist organizations is appropriate when viewed from a legal and criteria perspective. terrorism in the law. Referring to this law, terrorism is an act that uses violence or threats of violence, creates an atmosphere of terror, widespread fear, mass casualties, damage, destruction of vital strategic objects, the environment, public and international facilities with ideological and political motives. , including security breaches.

c. Papua's Special Autonomy in Constitutional Law

Currently there are 6 (six) provinces in Papua and their capitals.⁴⁴ A total of 6 (six) provinces in Papua have become autonomous regions on Papua Island. Of the 6 (six) provinces in Papua, 4 (four) provinces will be expansions of the previous 2 (two) provinces, namely Papua and West Papua Provinces in 2022. The Papua Island region is located in the eastern part of Indonesia. In this island area there is also the country of Papua New Guinea which is to the east. The expansion of the province is intended to accelerate development, improve public services and community welfare. This is none other than considering that Papua is very large. The area of Papua Island is around 786,000 square kilometers. The area included in Indonesia is approximately 418,707.7 square kilometers, while the other area is included in Papua New Guinea. Provinces in Papua and their capitals include:

1) West Papua Province The capital of West Papua Province is Manokwari. West Papua is located at the western tip of Papua Island, which was previously called Irian Jaya. West Papua Province is an expansion area of Papua Province through Law Number 45 of 1999 concerning the Establishment of Central Irian Jaya Province, West Irian Jaya Province, Paniai Regency, Mimika Regency, Puncak Jaya Regency, and Sorong City. The expansion of West Papua Province was rejected by the community. Thus, the new expansion was implemented through Presidential Instruction Number 1 of 2003 concerning the Acceleration of Implementation of Law Number 45 of 1999 concerning the Establishment of Central Irian Jaya Province, West Irian Jaya Province, Paniai Regency, Mimika Regency, Puncak Jaya Regency, and Sorong City. The Constitutional Court on November 11 2004 stated that the legal basis for the formation of West Irian Jaya Province did not have binding legal force, but the existence of the province was declared legal. Based on Government Regulation Number 24 of 2007 concerning Changing the Name of West Irian Province to West Papua Province, the area originally named West Irian Jaya was changed to West Papua. In the plenary session on 17 November 2022, the Law on the Province of West Papua and Southwest Papua was passed by the DPR RI, namely: Law Number 29 of 2022 concerning the Establishment of the Province of Southwest

⁴⁴ <https://regional.kompas.com/read/2023/08/26/220042478/6-provinsi-di-papua-beserta-ibukotanya?page=all> (Penulis: Ardito Ramadhan dan Dandy Bayu Bramasta | Editor: Sabrina Asril dan Rizal Setyo Nugroho).

Papua. There are seven districts in West Papua, namely Fakfak, Kaimana, Manokwari, South Manokwari, Arfak Mountains, Bintuni Bay and Wondama Bay. The territorial boundary of West Papua Province to the north is the Pacific Ocean. The territorial boundary of West Papua Province to the west is Maluku Province and North Maluku Province. The territorial boundary of West Papua Province to the east is Cendrawasih Bay. The border of West Papua Province to the south is the Seram Sea. The territorial boundary of West Papua Province to the southeast is Central Papua Province. The West Papua region has many mountains and lakes.

2) Papua Province The capital of Papua Province is Jayapura City. Papua Province was originally named Irian Jaya and was changed to Papua in accordance with Law Number 21 of 2001 concerning Special Autonomy for Papua Province. In 2004, accompanied by protests, Papua Province was divided into two provinces by the Indonesian government. The eastern part uses the name Papua, while the western part becomes West Irian Jaya which is currently West Papua Province. The number of districts in Papua Province is eight, namely Jayapura, Sarmi, Keerom, Mamberamo Raya, Waropen, Yapen Islands, Biak Numfor and Supiori. Papua Province has one city, namely Jayapura City. The population of Papua Province based on BPS data in 2019 was 3,379,302 people. Furthermore, Law Number 21 of 2001 concerning Special Autonomy for the Province of Papua was changed to Law Number 35 of 2008 concerning the Establishment of Government Regulations in Lieu of Law Number 1 of 2008 concerning Amendments to Law Number 21 of 2001 concerning Special Autonomy for the Province Papua Becomes Law.

3) Central Papua Province The capital of Central Papua Province is Nabire Regency. Central Papua Province is one of the new provinces resulting from the expansion of Papua province. The other two regions resulting from the expansion are South Papua Province and Mountainous Papua Province. The formation of Central Papua Province is based on Law Number 15 of 2022 concerning the Establishment of Central Papua Province. There are 8 regencies in Central Papua Province, namely Nabire, Puncak Jaya, Paniai, Mimika, Puncak, Dogiyai, Intan Jaya and Deiyai. The Central Papua Province region covers 50 islands. The northern boundaries of Central Papua Province are Waropen Regency, Mamberamo Regency and Cendrawasih Bay. The eastern borders of Central Papua Province are Lanny Jaya, Nduga, Tolikara and Asmat Regencies. The southern border of Central Papua Province is the Aur Sea. The western boundaries of Central Papua Province are Kaimana Regency and Teluk Wondama Regency, West Papua Province.

4) Mountainous Papua Province. The capital of Mountainous Papua Province is Wamena, Jayawijaya Regency. Mountainous Papua Province is one of the new autonomies resulting from the expansion of Papua Province. The area of the Papua Mountains Province is around 108,476 square kilometers. The Papua Mountain Province region is the only region that is not limited by water or sea. The border of the mountainous Papua Province to the north is Papua Province. The border of the Papua Mountain Province to the west is Central Papua Province. The border of the

Papua Mountain Province to the south is South Papua Province. The border of the Papua Mountain Province to the east is Papua New Guinea. There are eight regencies in the Papua Mountain Province, namely Jayawijaya, Bintang Mountains, Tolikara, Yahukimo, Central Mamberamo, Yalimo, Lanny Jaya and Nduga. There are 23 tribes in the Mountain Province, namely Dani, Dem, Ndugwa, Ngalik, Ngalum, Nimbora, Pesekhem, Pyu, Una, Uria, Himanggona, Karfasia, Korapan, Timorini, Kupel, Wanam, Biksi, Momuna, Murop, Sela Sarmi, Nayak, Nduga, and Yali.

5) South Papua Province The capital of South Papua Province is Merauke. South Papua Province is the result of the expansion of Papua Province together with Mountainous Papua Province and Central Papua Province based on Law Number 14 of 2022 concerning the Establishment of South Papua Province. There are five regencies in South Papua Province, namely Asmat Regency, Boven Digoel, Mappi, Bintang Mountains and Merauke Regency. The tribes of South Papua Province are included in the Anim Ha traditional area. They can use rowing boats and make Asmat carvings. The territorial boundaries of South Papua Province to the north are Nduga Regency, Yahukimo, Bintang Mountains. The territorial boundary of South Papua Province to the east is the State of Papua New Guinea. The border of South Papua Province to the south is the Arafura Sea. The territorial boundaries of South Papua Province to the west are Mimika Regency and Laut Aru.

6) Southwest Papua Province. The capital of Southwest Papua Province is Sorong City. Southwest Papua Province is the result of the expansion of West Papua Province based on Law Number 29 of 2022 concerning the Establishment of Southwest Papua Province. There are six districts in Southwest Papua Province, namely Raja Ampat, South Sorong, Tambrau and Maybrat districts. One area has city status, namely Sorong City. The formation of the Southwest Papua Province is based on Law Number 29 of 2022 concerning the formation of the Southwest Papua Province. The boundaries of Southwest Papua Province to the north are the Philippines, Palau and the Pacific Ocean. The territorial boundaries of Southwest Papua Province to the east are Manokwari Regency and Teluk Bintuni Regency, West Papua Province. The territorial boundaries of Southwest Papua Province to the west are Maluku Province and North Maluku Province. The territorial boundaries of Southwest Papua Province to the south are Fakfak Regency and Kaimana Regency, West Papua Province.

The Indonesian Government's political will to deal with Papua seriously began in 1999,⁴⁵ which was marked by President Abdurrahman Wahid giving the name Papua to replace Irian Jaya and allowing the flying of the Morning Star flag as a

⁴⁵ Pada masa Orde Baru Pasca Pepera, penanganan Papua dinilai masih setengah hati, bahkan cenderung hanya penguasaan pusat terhadap wilayah strategis Papua. Sehingga menimbulkan gejolak dan polemik yang berkepanjangan. Kekerasan dan pembunuhan hampir mewarnai kehidupan sehari-hari masyarakat Papua. Masyarakat Papua dihadapkan pada dua pilihan yang tidak harus dipilih, karena kedua-duanya mengancam keselamatan jiwa dan harta mereka, yaitu moncong senapan TNI di depan, serta panah dan tombak militan OPM di belakang.

symbol of Papuan culture and not to separate themselves from it. The Unitary State of the Republic of Indonesia (NKRI).⁴⁶

This is felt to be important because it is considered part of the development of the Papuan people's complete identity which is shown by affirming their identity and self-esteem, including the possession of regional symbols such as songs, flags and coats of arms. Apart from that, the Government has also designated Irian Jaya Province as a special autonomous region, which is explicitly stated in MPR RI Decree Number IV/MPR/1999 concerning Outlines of State Policy for 1999-2004, Chapter IV letter G, point 2. Following up on the mandate Tap the MPR, the DPR on October 22 2001 approved and enacted the Law on Special Autonomy for Papua Province. The DPR's decision was ratified on November 21 2001 as Law Number 21 of 2001 concerning Special Autonomy for the Papua Province (UU No. 21 of 2001), State Gazette of the Republic of Indonesia of 2001 Number 135.⁴⁷

The presence of Law no. 21 of 2001 was an effort to struggle because at that time all components of Papuan society had to be convinced, especially indigenous Papuans, who at that time voiced,⁴⁸ that Otsus was the most appropriate choice. It doesn't stop there, in the discussion of the Papua Special Autonomy Bill in the DPR there are also efforts to struggle. This is because the bill, which was an initiative proposal from the DPR, received input from the Government in the form of a Problem Inventory List (DIM) of 471 problems. The struggle to pass Law no. 21 of 2001 at that time was also added to the case of the death of the Chairman of the Presidium of the Papua Council, Theys Hiyo Eluay, a few days before President Megawati Soekarnoputri issued Law no. 21 of 2001.⁴⁹

Basically, the term "autonomy" in Special Autonomy is defined as freedom for the Papuan people to regulate and take care of themselves, at the same time it also means freedom to carry out self-government and regulate the use of Papua's natural resources for the greatest prosperity of the Papuan people without abandoning the responsibility to participate. supporting the administration of central government and other regions in Indonesia which are indeed lacking. Another thing that is no less important is the freedom to determine social, cultural, economic and political development strategies that are in accordance with the characteristics and particularities of human resources as well as the natural and cultural conditions of the Papuan people.

In addition to administering government and regulating the utilization of natural resources in Papua Province for the greatest prosperity of the Papuan people as part of the Indonesian people in accordance with statutory regulations. This

⁴⁶ M. Ridha Saleh, "Saudara Presiden, Datanglah ke Papua, Kompas, 3 November 2011, hlm. 6

⁴⁷ Mohammad A. Musa'ad, op.cit., hlm. 359-360.

⁴⁸ Ibid, Istilah ini juga masih sering dilontarkan dalam wawancara dengan beberapa anggota DPRP dan anggota MRP untuk menyatakan M=MERDEKA.

⁴⁹ Ibid, Istilah ini juga masih sering dilontarkan dalam wawancara dengan beberapa anggota DPRP dan anggota MRP untuk menyatakan M=MERDEKA.

authority also means the authority to empower the socio-cultural and economic potential of the Papuan people, including providing an adequate role for indigenous Papuans through traditional, religious and women's representatives. The role played is to participate in formulating regional policies, determining development strategies while still respecting the equality and diversity of life of the Papuan people, preserving the culture and natural environment of Papua, which is reflected in the change of the name Irian Jaya to Papua, regional symbols in the form of regional flags and regional songs as a form of actualization of the identity of the Papuan people and recognition of the existence of customary rights, customs, traditional communities and customary law.

Meanwhile, the term "special" is more interpreted as different treatment given to Papua because of its special characteristics. These specificities include things such as the socio-economic level of society, culture and political history. In practical terms, the specificity of Papuan autonomy means that there are basic things that only apply in Papua and do not apply in other regions of Indonesia, and there are things that apply in other regions that do not apply in Papua.

Special Autonomy (Otsus) has long been considered by various groups to be an important key point for determining political status, both for the government and the people of Papua. As is known, through Law no. 21 of 2001, Papua has been given the authority to organize its own government based on statutory regulations. With Special Autonomy, the central government wants separatist movements to immediately stop their activities, and Papua remains part of the Unitary State of the Republic of Indonesia (NKRI). A further implication is that peace in Papua will continue to be maintained, without any political upheaval seeking independence.

The implementation of Special Autonomy for Papua Province has more or less provided a sedative for the Papuan people. For almost 27 years, since the Pepera was held by the UN, the Papuan people have lived under pressure from the central government which uses a security approach in maintaining the integration of a region full of natural resources. During President Abdurrahman Wahid's administration, the draft Papua Special Autonomy Law was discussed, and during President Megawati's term the law was passed, even though in reality implementation in the field was still not optimal.

One of the strongest demands from the aspirations that developed in Papua in 2003 was the demand for the formation of the Papuan People's Assembly (MRP).⁵⁰ Apart from demands that the Regional Head be a native Papuan, maximize the

⁵⁰ Sebagaimana diatur dalam UU Otsus Papua tersebut, Pasal 19 menyebutkan: (1) MRP beranggotakan orang-orang asli Papua yang terdiri atas wakil-wakil adat, wakil-wakil agama, dan wakil-wakil perempuan yang jumlahnya masing-masing sepertiga dari total anggota MRP; (2) Masa keanggotaan MRP adalah 5 (lima) tahun; (3) Keanggotaan dan jumlah anggota MRP ditetapkan dengan Perdasus; dan (4) Kedudukan keuangan MRP ditetapkan dengan Peraturan Pemerintah. [Lihat: Indra J. Piliang, *Otonomi Khusus Papua dan MRP*, Suara Pembaruan, 11 Juli 2003].

management of Papua's Natural Resources for the Papuan people, and several other important things.

The expansion of districts (sub-districts) and regencies in accordance with the Special Autonomy Law is an alternative solution for Papua. This expansion is an effort to carry out the aspirations of the lower Papuan people. Most people think that the expansion of Papua province as in Presidential Instruction no. 1 of 2003 concerning the Acceleration of Development in Papua into 3 provinces, is not an effective thing. The reason is that the human resources in Papua are not yet able to control it.

4. Conclusion

The Papua problem is a dispute in the Papua region, Indonesia. Beginning in 1961, the Dutch desire to form a West Papuan state independent of Indonesia emerged. In 1962, the Dutch agreed to give up the temporary UN administrative area, signing the New York Agreement, which included provisions for a referendum to be held before 1969. The date 15 August 1962 was obtained. The New York Agreement contained the handover of western Papua from the Netherlands through the United Nations Temporary Executive Authority (UNTEA). On May 1, 1963, western Papua returned to Indonesia. Regarding terrorism in Indonesia, one issue that is still hotly discussed is the Papua dispute and the birth of the Free Papua Organization. Papua then became a legal autonomous region for Indonesia in the same year through Law Number 12 of 1969 concerning the Establishment of the Autonomous Province of West Irian and Autonomous Regencies in West Irian Province.

The implementation of this status is in accordance with Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism, where every organization or person who commits massive violence can be categorized as a terrorist. Every action carried out by an Armed Criminal Group, whatever the name of the organization or the people affiliated with or involved with it, is a terrorist act.

The Indonesian Government's political will to deal with Papua seriously began in 1999, which was marked by President Abdurrahman Wahid giving the name Papua to replace Irian Jaya and allowing the flying of the Morning Star flag as a symbol of Papuan culture and not to separate themselves from it. The Unitary State of the Republic of Indonesia (NKRI).

The government also designated Irian Jaya Province as a special autonomous region, which is explicitly stated in the MPR RI Decree Number IV/MPR/1999 concerning Outlines of State Policy for 1999-2004, Chapter IV letter G, point 2. Following up on the mandate of the MPR Decree, the DPR on October 22 2001 approved and enacted Law Number 21 of 2001 concerning Special Autonomy for Papua Province.

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