

Integration of Papua into the Unitary State of the Republic of Indonesia

Lily Bauw

lilybauw845@gmail.com

Faculty of Law, Cenderawasih University, Jayapura-Papua, Indonesia

Article Info

Received: 2024-05-10

Revised: 2024-09-06

Accepted: 2024-12-30

Keywords: Integration of Papua, the Unitary State of the Republic of Indonesia.

Abstract

The aim of this research is to show that the government and indigenous Papuan people must consider and discuss the possibility of integrating Papua into the territory of the Unitary State of the Republic of Indonesia. This research method is normative and empirical, with statutory regulations as the main source. The research results are then analyzed and can be justified by looking at the facts or reality in the field. The research results show that there is a lot of debate about the integration of Papua into the Republic of Indonesia as mentioned above, whether it is part of a political effort or state formation. The most important thing is to learn from the past, namely how to utilize differences to produce results that are beneficial to society, especially the Papuan people. Therefore, the most important thing to do is resolve human rights violations or acts of violence that occurred in Papua Province, both before and after integration.

1. Introduction

Until now, there is debate about whether Papua should be included in the territory of the Republic of Indonesia. The integration process is still debated by some people. They believe that this was done undemocratically and without involving the role of the entire community. This is one of the factors that contributes to the upheaval of demands to release Papua from the territory of the Unitary State of the Republic of Indonesia, and one of the factors that causes the implementation of development in Papua Province to not go well. This can be seen from the government's infrastructure development policies, such as infrastructure development in Merauke Regency and the Trans Papua road, a national road that connects all of Papua.

The government seeks to "create justice, reduce income disparities and disparities between regions, as well as reduce high prices in each region, as well as to improve the economy in Papua Province" by building infrastructure in Papua. This welfare approach prioritizes the development of basic infrastructure, such as land, sea, river and air transportation and systems, as well as clean water, energy and telecommunications infrastructure. Thus, it is hoped that this infrastructure development can help the community participate in social and economic activities.

According to Soehino,¹ a unitary state does not consist of several countries, but only one country, so there is no country in it. Therefore, there is only one government, namely the central government, which is responsible for all state government affairs, including determining government policy and implementing state governance.

Soehino, Kusnardi, and Ibrahim stated that a unitary state only consists of one country and does not have a state within it like a federal state.² Likewise, Busroh said that a unitary state does not consist of several countries like a federation, but only one country, there are no states in it. Therefore, in a unitary state there is only one government, namely the central government, which has the highest power and authority over all areas of government. This central government at the final and highest level has the authority to decide everything.³

Soehino also said that there were differences between the two types of countries, but he focused more on decentralized unitary states. He also said that there are similarities between the two types of countries. The similarity is that both types of countries have regional or regional divisions; they differ only in the way they are mentioned: decentralized unitary states are called regions, and federal states are called states. Second, both types of countries have two types of government: decentralized unitary states called governments and local governments.⁴ One of the differences between the two forms of state is the system of division of powers in the Constitution. In a decentralized unitary state, the central government has authority, while in a federal state, state governments and the federal government have authority. Second, in a decentralized unitary state, the central government has authority, while in a federal state, state governments have authority.

¹ Soehino. (2005). *State Science*. Yogyakarta, p. 224.

² Mohammad Kusnardi and Harmaily Ibrahim. (1983). *Introduction to Indonesian Constitutional Law*. Center for Constitutional Law Studies FH UI and CV Sinar Bakti, Jakarta, p. 249.

³ Abu Daud Busroh. (2001). *State Science*. Jakarta, p. 64.

⁴ Soehino. *Op. Cit.* p. 233-235.

⁵ Indra Mexasai. (2011). *Dynamics of Indonesian Constitutional Law*. Bandung, p. 119.

In his book "Principles of Post-Reformation Constitutional Law", Jimly Asshiddiqie argues that in a unitary state, power is shared between the central and regional governments, but original power is given to the central government through the transfer of some of the central government's powers. In contrast, in a federal state, power is given to the states and the federal government, and original power is given to the states.⁵

Oentarto,⁶ stated that the process of shifting from centralization to decentralization began before the unitary state implemented decentralization. Because power and authority shifts from the center to the regions, whereas in a federal country, it shifts from the state government to the federal state.

P. J. Proudhon developed a different perspective on the type of federal state possible. He divided the concept of a federal state in terms of ideology and structure. Considering the form of a federal state as an ideology, namely the belief that diversity is necessary to realize unity. Therefore, those who support this understanding often call it a school that recognizes the diversity of countries. As an entity, it assumes the form of a federal state as a state, with clear power relations between the center and the states.⁷

Many government efforts to build infrastructure using a property approach (welfare approach) are questionable as to how effective they are. Megaproject development is often not in accordance with community needs. This is proven by the development of the Merauke Integrated Food and Energy Estate (MIFEE) in Merauke, which began during the time of Governor Bas Sueba, which focused on infrastructure development with a welfare approach. On February 12 2010, construction of MIFEE was started by Jhon Gluba Gebze, the regent of Merauke. MIFEE is a food production development agency that covers all aspects of food, including plantations, food crop farming, land fisheries, animal husbandry, construction and the wood processing industry. MIFEE operates on an area of 1.283 million ha.⁸

One of the community's concerns about the development project is the consequences of the development carried out, which will of course result in an increase in population. Therefore, developing food production and building roads will certainly bring in workers from outside Merauke and districts in mountainous areas who are ready to work as farmers or other workers. This will definitely not solve Papua's problems; on the contrary, it will cause new problems—indigenous Papuans will be further marginalized.

The description above shows that the various efforts made by the Government above have not succeeded in resolving or reducing the conflict occurring in Papua Province, even when many community groups continue to raise the issue of integration. This shows that the government and indigenous Papuan people must consider and debate the integration of Papua into the territory of the Unitary State of the Republic of Indonesia, regardless of the policy chosen.

2. Research Method

This research always relies on normative and empirical where legislation is the main source which is very important and is linked to looking at facts or realities that occur in the field, then the data is analyzed and can be accounted for.⁹

3. Result and Discussion

At the II Papuan Congress in Jayapura on July 4 2000, historical issues related to the integration of Papua into the Republic of Indonesia were discussed, which gave rise to differences of opinion between the government and the Papuan people. This disagreement

is documented in the Main Ideas Behind the Preparation of the Draft Law on Special Autonomy for Papua Province in the Form of a Self-Governing Region.

Rectifying history is related to two main problems. The first is the meaning of the Agreement between the Republic of Indonesia and the Kingdom of the Netherlands Concerning West New Guinea (West Irian), which is also known as the New York Agreement, and the second is the Indonesian military's actions against intimidation of the population before and after PEPERA.

The II Papuan Congress stated that the substance of the New York Agreement was weak. The articles are formulated illogically and inconsistently. Article Article On the one hand, the formula says that power is given to Indonesia, but on the other hand, it is not.

Article XIII also states that after the initial phase of UNTEA administration begins, UN security forces will be replaced by Indonesian security forces. Added the following sentence, which states that all UN security forces will withdraw when the government is handed over to Indonesia. In terms of self-determination as stated in Article XVIII, there is no article or regulation that stipulates that self-determination must be carried out collectively. Instead, it said that it was carried out in accordance with international practice. International practice can be defined as direct democracy where everyone has a vote and must vote or representative democracy where representatives are used rather than all voters.

Observing these articles shows that the legal politics of the agreement are not to solve the problems faced by Indonesia when trying to take back Papua. On the contrary, this politics serves to prepare a time bomb for Indonesia's future.

The government considers the integration of Papua into the territory of the Republic of Indonesia as a final decision, not based on the implementation of PEPERA; On the contrary, Papua has been part of the Republic of Indonesia since its proclamation of independence. This was proven when PPKI divided its government territory on 19 August 1945, which consisted of eight provinces: West Java, Central Java, East Java, Sumatra, Borneo (Kalimantan), Sulawesi, Maluku and Lesser Sunda. Papua then became part of Maluku Province.¹⁰

After the proclamation of independence in 1945, the Papua region again became part of the Republic of Indonesia. At the Malino Conference in 1946, Frans Kaisiepo changed the name of Papua to "Irian", which means "sunshine dispelling the fog on the Sea." In an attempt to resolve the conflict with the Netherlands, a Round Table conference in The Hague was held. This conference attempted to reach an agreement to hand over the entire former Dutch colony to the Republic of Indonesia, but this agreement failed, and the Dutch continued to claim Papua as part of their territory.¹¹

According to Yamin, the Dutch claim was that Dutch politicians used their constitution to take over Indonesian territory. They included West Irian in the Dutch constitution under the name *Nederlandsch New Guinea*.¹²

Yamin called this action theft in Indonesia during the day. According to Yamin, Indonesia's territory is "the Java Sea, so our sea is Segara Nusantara which is circled by 7 Nusa Islands as diamonds in a string: Irian, Maluku, Nusa Tenggara, Sulawesi, Kalimantan, Java and Sumatra".

⁶ Oentarto, S.M. et al. (2004). *Initiating the Future regional autonomy format*. Jakarta, p. 6.

⁷ Eko Prasajo. (2005). *Federalism and the Federal State-An Introduction*. Depok, Jakarta, p. 2.

⁸ R. Yando Zakaria. et al. (2011). *MIFEE: Not Affordable Angan Malind, Notes on efforts to accelerate MIFEE development in Merauke Regency*. Papua. Jakarta, p. 10-12 .

⁹ Peter Mahmud Marzuki. (2010). *Legal Research*. Kencana Prenada Media, Jakarta, p. 27.

The Dutch government quickly formed a Nederlandsch New Guinea government led by a governor and assisted by three resident assistants who lived in Jayapura, Manokwari and Merauke. In 1952, it developed into Noord New-Guinea, Zuid New-Guinea, Central New-Guinea, and West New-Guinea. They have six afdeeling, namely:¹³

- Afdeeling Hollandia, Biak, Manokwari, Fakfak, Merauke, and Central Highlands. Afdeeling Hollandia with the capital Hollandia consists of: Onderafdeeling Nimboran with the capital Genyem, Onderafdeeling Sarmi with the capital Sarmi, Onderafdeeling Keerom with the capital Ubrub, and the Oos Nieuw-Guinea exploration area.
- a. Afdeeling Geelvinkbaai with the capital Biak consists of Onderafdeeling Schouten-eilanden with the capital Biak and Onderafdeeling Yapen/Earopen with the capital Serui.
 - b. Afdeeling Centraal-Nieuw-Guinea with the capital yet to be determined consists of Onderafdeeling Paniai with the capital Enarotali, Onderafdeeling Tigi with the capital Waghete, the Midden-Bergland Exploration Region and the West-Bergland Exploration Region.
 - c. Afdeeling Zuid-Nieuw-Guinea, with the capital Merauke, consists of: Onderafdeeling Sorong with the capital Sorong, Onderafdeeling Raja Ampat with the capital Doom, Onderafdeeling Manokwari with the capital Manokwari, Onderafdeeling Muyu with the capital Mindiptana.
 - d. Afdeeling Onderafdeeling Fakfak is the capital of Fakfak, which consists of Onderafdeeling Sorong, Onderafdeeling Raja Ampat, Onderafdeeling Doom, Onderafdeeling Manokwari, Onderafdeeling Ransiki, Onderafdeeling Teminabuan, Onderafdeeling Bintuni, Steenkool.

To respond to the failure of the Round Table Conference, Indonesia launched Law Number 15 of 1956 concerning the Establishment of the Autonomous Region of West Irian Province. In the consideration section, it was stated that: "After the Law on the Cancellation of the Round Table Conference Agreement, there are no longer any obstacles to implementing the ideals of forming West Irian into an Autonomous Province, in accordance with the content and spirit of the Proclamation of Independence".

After approximately one year, Emergency Law Number 20 of 1957, which amended Law Number 23 of 1957 concerning the Establishment of the Autonomous Region of West Irian Province, was re-enacted. The focus of the law is to reorganize the division of Papua and Tidore (Maluku).

Trikora, which was formed in Yogyakarta on 19 December 1961, was an additional effort to re-incorporate Papua into Indonesian territory. Trikora contains: first, stopping the formation of the State of Papua by the Dutch; second, raising the red and white flag in West Irian, Indonesia's homeland; and third, preparing a joint movement to maintain national independence and unity.¹⁴

¹⁰ he Liang Gie and F. Soegeng Istanto. (1966). *The Growth of the West Irian Provincial Government and the Possibilities for the Development of Its Autonomy in the Future. First Research Project Results. Sukarnapura, West Irian*. h. 7. See also B.N. Marbun. (2010). *Regional Autonomy 1945-2010, Process and Reality. Development of Regional Autonomy, from colonial times to the present*. Jakarta. Revised Edition. p. 22-23.

¹¹ Koentjaraningrat. (1994). *Irian Jaya Building a Plural Society*. Jakarta, p. 72-76.

¹² Muhammad Yamin. (1960). *The Preparatory Manuscript for the 1945 Constitution contains all the official texts for the preparation of the 1945 Constitution which has re-entered into force in the Unitary State of the Republic of Indonesia*. Volume Three, Jakarta, p. 844.

¹³ PIM Schoorl. (2001). *Dutch in Irian Jaya, Amtenar in the Turbulent Period 1945-1962*. Jakarta, p. xxix-xxx.

¹⁴ John R.G. Djopari. (1993). *The Free Papua Organization Rebellion*. Jakarta, p. 37.

Trikora was followed by Presidential Decree Number 1 of 1962 concerning the Establishment of a New Form of West Irian Province. This determination revoked the previous law and reorganized the territory, as shown in Article 1 Paragraph (1), which stated that the "Residentie Nieuw Guinea" would consist of the territory established by van Mook, which is currently occupied by the Dutch, as shown in the map attached to the Presidential Decree. Despite various efforts, the territorial conflict between the Netherlands and Indonesia was finally resolved through the New York Agreement dated 15 August 1962, which was stipulated based on UN resolution Number 1752 (XVII) on 21 September 1962. The substance of this agreement regulated how the government would be handed over to Indonesia from the Netherlands.

The agreement stipulates that Indonesia has three responsibilities. First, they must accept the complete transfer of power over the West Irian region from the United Nations Temporary Executive Authority (UNTEA). Second, they must organize the government. Finally, they must prepare and implement PEPERA. This handover began on December 31, 1962 and ended on May 1, 1963.

Therefore, the government claims that Papua has legally and legally become part of the Republic of Indonesia since May 1 1963. However, the strange thing is that the Indonesian government is still responsible for implementing PEPERA based on this agreement. The existence of PEPERA is what causes problems that continue in the future.

Papuans believe that Papua was actually a country long before it became part of the Republic of Indonesia. This was proven by the elections held in January 1961, which formed a council called the Niugini Council or Guinea Raad (Nieuw Guinea People's Representative Council), which was inaugurated on 5 April 1961. In Jayaapura, Hollandia, on 1 December 1961, Papua declared its independence. There, the Morning Star flag flew over the Dutch flag and the song Hai Tanahku Papua was sung after the Dutch national anthem Wilhelmus. The event was broadcast by Dutch and Australian radio.

Although the New York Agreement, which is considered a breakthrough achievement of the United States Government, was created by National Security Advisor Mc George Bundy, who lobbied President John F. Kennedy in negotiations to transfer the Papuan government to Indonesia. Robert Kennedy drafted the New York Agreement, which was signed by the Netherlands, Indonesia, and the United Nations in August 1962.

The viewpoint regarding Papuan integration as mentioned above has contributed to the emergence of various social movements demanding the release of the Republic of Indonesia. The time considered appropriate to show its existence as a nation is to meet President B.J. Habibie.

Team 100 submitted its aspirations to the President of the Republic of Indonesia B.J. Habibie at Bina Graha Jakarta on February 26 1999, where they expressed the Papuan people's desire to separate themselves (independence) from the Republic of Indonesia. President B.J. Habibie, who did not anticipate the statement, canceled his previous speech and gave a verbal response, including:

- a) Renun Let us consider this thoroughly. Due to the limitations of my abilities and the fact that I am not a human robot, I cannot answer all questions in this short time "sim salabim".
- b) The solution to the differences in political statements between demands "M" and "O" in this dialogue forum will not be discussed as to which is right and which is wrong, but will consider both, and we will see which is best for society.
- c) As a follow-up to the 100 team meeting, socialization was then carried out in Papua Province. This socialization activity had the impact of increasingly heating up the political temperature in Papua, especially the formulation that was produced after 5 months of reflection according to the President's response, namely remaining

committed to leaving the Republic of Indonesia and demanding that the Government hold a referendum. The Papuan people's demands were continued during the Second Papuan Congress in Jayapura on July 4 2000, which aimed to straighten out Papuan history.

In the Text of the West Papua Political Statement to the Government of the Republic of Indonesia, it is stated that: Development failure is not the main factor causing political and security instability in West Papua (Irian Jaya) from 1963 until now. The political status of West Papua, which was declared an independent country on December 1, 1961, was the main factor. Even though this statement was the best alternative for West Papua's future hopes and aspirations, the Republic of Indonesia accepted it.

The government responded to the unstable situation in Papua Province by issuing MPR RI Decree No. IV/MPR/1999 concerning GBHN 1999–2004, which established a policy to designate Papua Province as a special autonomous region. This decision was also strengthened by the Republic of Indonesia MPR Decree No. IV/MPR/2000 concerning Policy Recommendations in the Implementation of Regional Autonomy, which will become law following MPR RI Decree No. IV/MPR/1999 concerning GBHN.

Apart from the response given by the government, there were various reactions from various parts of society in Papua Province to this political escalation. This includes local government assistance teams, academics, and the Papuan NGO Foker. They tried to find a solution by drafting a special autonomy law for Papua, and on the other hand tried to convince the people who were demanding independence at that time

By considering that various parts of society in Papua Province responded to the special autonomy policy, it becomes clear that the establishment of special status for Papua Province is the result of the struggle of all parts of society in Papua Province, as evidenced by:

1. the struggle before the People's Consultative Assembly (MPR), namely the struggle to include the draft law as a formulation in the MPR Decree;
2. the struggle "against the current", namely fighting to convince every member of Papuan society, especially indigenous Papuans, who voice "M" (independence or separation from the Republic of Indonesia), that special autonomy is a way to accelerate progress and protect people's rights;
3. struggle in front of the DPR RI, namely fighting to make the draft bill proposed by the region the main reference in discussions, because the Government submitted to the DPR RI the draft law on special autonomy for Papua.

This struggle continued when the law was discussed in the DPR RI. The debate about the name of the law proposed by Papua Province is "Draft Special Autonomy Law for Papua Province in the Form of a Self-Governing Territory." This name was finally decided after tough discussions in the DPR RI.

The emphasis on the term "gift" above aims to show that Papua's special autonomy policy was the result of the struggle of the Papuan people, including religious, traditional, women, NGOs, academics and various other elements of society at that time. So that Papua does not separate from the Republic of Indonesia, the Government provides a special autonomy policy.

As part of a country's political journey or the process of state formation, there is a lot of controversy regarding the integration of Papua into the territory of the Republic of Indonesia as mentioned above. The most important thing to do is take lessons from the past, namely how to turn these differences into something good for society, especially the Papuan people. Therefore, an important agenda to carry out is to resolve various human rights violations or acts of violence that occurred in Papua Province, both before and after integration.

4. Conclusion

Based on the description above, human rights violations have occurred among the people in Papua, so the government is obliged to protect and protect the indigenous peoples in Papua so that their rights are not taken away and the people perish. All of this needs to be done by the government in order to realize the smooth implementation of development and governance in Papua Province. In connection with this, an appropriate means or forum is needed for successful implementation, but the choice of the form that will be used must be made by the Government and the people of Papua through a comprehensive policy within the framework of the Unitary State of Indonesia.

References

- Abu Daud Busroh. (2001). *State Science*. Jakarta.
- Agus A. Alua. (2002). *Papua Political Education Series No. 6. Commemoration of the 41st Anniversary of the Tragedy of Crimes Against Humanity in the Land of Papua and the Independence of West Papua*. Papua Council Presidium Secretariat and East Fajar STFT Research Bureau. Jayapura.
- Eko Prasajo. (2005). *Federalism and the Federal State-An Introduction*. Depok, Jakarta.
- Indra Mexasai. (2011). *Dynamics of Indonesian Constitutional Law*. Bandung.
- John R.G. Djopari. (1993). *The Free Papua Organization Rebellion*. Jakarta.
- Koentjaraningrat. (1994). *Irian Jaya Building a Plural Society*. Jakarta.
- Mohammad Kusnardi and Harmaily Ibrahim. (1983). *Introduction to Indonesian Constitutional Law*. Center for Constitutional Law Studies, FH UI and CV Sinar Bakti, Jakarta.
- Muhammad Yamin. (1960). *The Preparatory Manuscript for the 1945 Constitution contains all the official texts for the preparation of the 1945 Constitution which has re-entered into force in the Unitary State of the Republic of Indonesia*. Volume Three, Jakarta.
- Oentarto, S.M. et al. (2004). *Initiating the Future regional autonomy format*. Jakarta. Peter Mahmud Marzuki. (2010). *Legal Research*. Kencana Prenada Media, Jakarta.
- Permadi, M. A. M., & Hilalludin, H. (2025). *Reaktualisasi Hukum Islam Dalam Menjawab Tantangan Moderasi Beragama Di Era Globalisasi*. IMANU: Jurnal Hukum Dan Peradaban Islam, 1(03), 29-40.
- PIM Schoorl. (2001). *Dutch in Irian Jaya, Amtenar in the Turbulent Period 1945-1962*. Jakarta. Center for Democratic Studies, Cenderawasih University. (2007). *Reconstruction of the Papua Special Autonomy Law*. Jayapura.
- R. Yando Zakaria. et al. (2011). *MIFEE: Not Affordable Angan Malind, Notes on efforts to accelerate MIFEE development in Merauke Regency*. Papua. Jakarta.
- Minutes of Meeting Process for Discussion of the Draft Law Concerning Special Autonomy for Papua Province. Session Year 2001-2002. *Trial Period I. 3rd Working Meeting with the Minister of Home Affairs and Regional Autonomy*. October 5, 2001.
- Soehino. (2005). *State Science*. Yogyakarta.
- The Liang Gie and F. Soegeng Istanto. (1966). *The Growth of the West Irian Provincial Government and the Possibilities for the Development of Its Autonomy in the Future. First Research Project Results*. Sukarnapura, West Irian. See also B.N. Marbun. (2010). *Regional Autonomy 1945-2010, Process and Reality. Development of Regional Autonomy, from colonial times to the present*. Revised Edition, Jakarta.