

Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Law Enforcement in the OPM Papua Conflict: Justice and Humanitarian Perspectives

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Abstract. *The conflict in Papua between the Free Papua Organization (OPM) and the Indonesian government has been going on for decades, causing a lot of tension and suffering for the Papuan people. The Free Papua Organization (OPM) is a group of organizations that has a separatist nature. This group emerged as a result of the conflict between Indonesia and the Netherlands regarding West Irian. The aim of this research is law enforcement in the context of this conflict, with a focus on justice and humanitarian perspectives. In evaluating law enforcement in Papua, it is important to consider various aspects of justice. By formulating the problem of how to enforce the law in OPM conflicts based on a justice and humanitarian perspective. Research methods used is normative juridical. namely legal research literature carried out by research library materials. The research results show that an approach that focuses on security and law enforcement is not enough to resolve the Papuan conflict. Instead, a more holistic and inclusive approach is needed that combines law enforcement efforts with reconciliation, development and community empowerment initiatives. Only with this comprehensive approach can true justice and humanity be realized in Papua.*

Keywords: *Enforcement; Humanity; Justice; Law.*

1. Introduction

Indonesia believes that West Papua is part of Indonesia, while the Netherlands, which at that time discovered extraordinary natural resource potential, was very reluctant to let West Papua into Indonesian territory. The peaceful struggle was no longer carried out because the Dutch

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had prepared independence for West Papua. Seeing this, the Indonesian government did not remain silent. President Soekarno immediately launched the People's Tri Command (TRIKORA). The Indonesian government also reached an agreement in the military field with the Soviet Union. There are many different perceptions that arise regarding the integration of West Papua into the Republic of Indonesia. The involvement of more than 1,000 elected tribal chiefs rather than holding a vote is widely seen as the root of historic complaints regarding differences in perceptions of West Papua's integration into the Republic of Indonesia.

In 2001 a special autonomy system emerged which was given by the Indonesian government to Papua. The establishment of Law no. 45 of 1999 concerning the Regional Expansion of Irian Jaya (now Papua) into the province of Central Irian Jaya and West Irian Jaya Province. Pniai, Mimika and Puncak Jaya districts and Sorong City, which were rejected by the Papuan people. President BJ Habibie, who was replaced by KH Abdurrahman Wahid, issued TAP MPR No. IV/MPR/2000 regarding policy recommendations in implementing Special Autonomy (Otsus) regulations for Aceh and Papua by taking into account the aspirations of relevant regional communities.

After accommodating various discussions taking place inside and outside Papua regarding Special Autonomy and receiving positive input, the People's Representative Council of the Republic of Indonesia (DPR RI) agreed to change the Draft Law (RUU) regarding Special Autonomy for Papua Province into Law (Law). Based on this, President KH Abdurrahman Wahid ratified Law Number 21 of 2001 concerning Special Autonomy for Papua Province which is aimed at improving public services, accelerating the development process and utilizing the entire population of Papua Province, especially the indigenous Papuan community.

Papuan traditional figure, who is also Ondofolo Sentani, Yanto Eluay, said a series of atrocities were committed by the armed criminal group (KKB) or better known as the West Papua National Liberation Army (TPNPB) Free Papua Organization (OPM) against teachers, motorbike taxi drivers and school children in Puncak Regency, violating traditional norms and tarnishing the face of custom. Yanto Eluay reiterated that the armed criminals, in this case the KKB who carried out security disturbances in Puncak Regency, must immediately stop their inhumane actions because custom does not justify it.

The existence of the Papuan KKB with all its brutal acts so far has certainly caused endless fear among local residents. It is not wrong for Papuans to become inflamed and express their jealousy towards their compatriots in other regions who can enjoy the dynamics of normal life without fear of sudden attacks from the KKB. If the dynamics of life in other regions or cities

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can continue normally and conducively because they receive maximum protection from the state, why can't Papuans receive maximum protection from the state? The presence of the state providing maximum protection for Papuans does not violate human rights (HAM) at all. Human rights are universal. This is a basic principle. Humans, whoever they are, are born with the same rights and dignity, including obtaining recognition of their human rights. When there are parties who claim to be at the forefront in fighting for human rights enforcement but take sides, it is reasonable to suspect that the person concerned does not fully understand the basic principles of human rights. Enforcement of human rights must be fair, apply equally to everyone, not just to one party but not to other parties.

Due to the diversity of atrocities committed by the KKB, President Jokowi finally ordered the TNI Commander Marshal Hadi Tjahjanto and the National Police Chief General Listyo Sigit to arrest and take firm action against all KKB members. This is confirmed in Article 1 paragraph (2) of Law no. 5 of 2018 concerning Amendments to Law no. 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law no. 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism into Law, which states that "terrorism is an act that uses violence or threats of violence that creates an atmosphere of widespread terror or fear, which can cause mass casualties, and/or cause damage or destruction of vital strategic objects, the environment, public facilities or international facilities with motives of ideology, politics or security disturbances." The acts of terror carried out by the KKB are considered to have met these elements, causing widespread casualties, damaging public facilities, and causing anxiety and threatening the safety and security of the people of Papua and West Papua.

This reality is what is happening in Indonesia recently. This criminal act emerged in the eastern part of Indonesia, specifically in the West Papua area, namely the rebellion from Free Papua Organization (OPM). The background to the rebellion that occurred in Papua by the will to liberate and separate from the Unitary State of the Republic Indonesia (NKRI). The OPM rebellion was based on dissatisfaction with the welfare of the people which was considered unequal, more specifically for the people of West Papua. The Free Papua Organization believes that the West Papua region is being made a stepchild by NKRI. Therefore, they demand justice and equality. The rebellion carried out by the OPM also resulted in a shooting between the KKB (Armed Criminal Group) and the TNI-Polri and recently it was even reported that the victims of the shooting by the OPM-KKB were civilians including local people, PT workers, teachers, and students.

This article will discuss the OPM-KKB (Armed Criminal Group) issue. what happened in Papua in the last few weeks. This issue is taken from the Kompas magazine edition April 2021. It was

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reported that the KKB carried out shootings against civilians in Papua. The action killed education workers, school children and ordinary citizens. Departing from the long series of conflicts that occurred in Papua, reinforced by the fact that the Papua conflict is the longest vertical conflict that has occurred in Indonesian history (and is still ongoing today), a scheme with new adjustments is needed to resolve this conflict. By enforcing the law, the author is interested in trying to unravel the problem of conflict in Papua .⁹ The following is the problem formulation from the research above: how did it begin to form Free Papua Organization (OPM)? And how does law enforcement handle the conflict between OPM Papus and the Indonesian government based on a justice and humanitarian perspective?

2. Research Methods

Research methods used is normative juridical. namely legal research literature carried out by research library materials or secondary data. This research was conducted to obtain materials related to the subject discussions such as theories, concepts, legal principles and legal regulations. Room scope of normative legal research.

3. Results and Discussion

3.1. Formation of the Free Papua Organization (OPM)

Papua is the largest and easternmost region of Indonesia, which consists of from Papua Province and West Papua Province. The total area of Papua itself is 421,981 km² (3.5 larger than Java Island) and topographically consists of a mountainous area and marshland along the coast. Papua borders the country of Papua New Guinea the eastern part, North Maluku and Maluku Provinces in the west, the Pacific Ocean in the north, and Arafura Sea to the south. Constitutionally, Papua is also the easternmost region from the unity of the Republic of Indonesia which is designated as part of the Unitary State Republic of Indonesia (NKRI) on 19

November 1969 through the UN resolution process No. 2504. Furthermore, Papua was legalized as an autonomous region in the same year through Law No. 12 of 1969 concerning the Establishment of the West Irian Autonomous Region and Autonomous Regency in West Irian Province.

The name Free Papua Organization (hereinafter referred to as OPM) is the name given by the Government of the Republic of Indonesia to every organization or faction both in Papua and abroad which is led by the sons of Papua who initially moved underground to form forces

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against the Indonesian government, both politically and physically armed with the aim of separating or liberating Papua from the Unitary State of the Republic of Indonesia (NKRI).

The beginning of the OPM movement according to Aditjondro (2000) was an attack by a group of people from Arfak on the Battalion 751 (Brawijaya) troop barracks in Manokwari on July 28 1965. This movement was led by Sergeant Major Parmenas Ferry Awom, who is a former member of the Battalion Papuan Volunteers (PVK or Papoea Vrijwilligers Korp) was formed Dutch. This attack was triggered by the resistance of PVK members The Papuan Battalion from the Arfak and Biak tribes will be mobilized.

The OPM rebellion then spread to a number of districts in Irian Jaya such as Biak Numfor, Sorong, Paniai, Fakfak, Yapen Waropen, Merauke, Jayawijaya and Jayapura. This act of rebellion was characterized by acts of physical resistance using weapons, hostage taking, demonstrations, raising the West Papuan flag, distributing and sticking pamphlets, as well as various acts of vandalism. These actions led to high levels of crossings in border areas to Papua New Guinea.

The background to the founding of the Free Papua Organization (OPM) began with the influence of the Dutch government during the period of Resident JP Eechoud which was marked by the birth of an educated Papuan elite who had a pro-Papuan attitude. The Netherlands will gave independence to Papua West no later than the 1970s, But West Papua's aspirations for has become an independent country blocked by the New York Agreement (15 August 1962) between the Netherlands and Indonesia which does not involve the nation Papua and West Papua are Indonesian territories.

The peak of political problems in Irian Jaya begins with differences in views between Indonesia and the Netherlands in the KMB at the end of 1949. In The negotiations were on the Indonesian side and The Dutch did not succeed in reaching agreement on territory Indonesian sovereignty. Indonesian Delegation chaired by Moh. Hatta didn't want to retreat from positions previously held nationalists before the proclamation. That the territory of Indonesia covers throughout the Dutch East Indies. Indonesia's desire to include West Irian into its territory has been concluded an agreement with the Netherlands, that the settlement regarding West Irian postponed a year later.

Delay in completion of West Irian has been used by the government Netherlands, namely by establishing agencies to prepare Irian people in the face independence. On the other hand for facing the politics of decolonization from Dutch government, then President Soekarno initiated

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Trikora. Where Trikora is a political moment for the Indonesian government, because with The Dutch government's Trikora was forced to sign the New.

Agreement York. With this New York Agreement the Netherlands will make the diversion administration in West Irian to UNTEA. October 1, 1962 and May 1, 1963 UNTEA will hand over West Irian to Indonesia. And Indonesia obliged to carry out the Act, Finally the Pepera was implemented by Indonesia with the results received by UN General Assembly. Pepera Results shows that the people of West Irian joining the Unitary State Republic of Indonesia (NKRI).¹⁶

However, the results of the Pepera, namely the people of West Irian joining the Republic of Indonesia, apparently gave rise to pros and cons among the people of West Irian themselves. The reason the people are against Pepera is that the Dutch political agreement with Indonesia which gave birth to the 1962 New York Agreement did not involve the Papuan people (their representatives) as a nation and homeland which was given by the Indonesian government to every organization or faction both in Irian Jaya and abroad led by sons and daughters of Irian Jaya who are pro West Papua with the aim of separating or liberate Irian Jaya (Papua The West separated from the Republic of Indonesia). Meanwhile, the reason why the OPM carried out the rebellion in Irian Jaya was dissatisfaction with the situation, disappointment and a growing awareness of West Papuan nationalism. OPM was born and grew developing in Irian Jaya. Initially, the OPM consisted of two factions, 1) an organization or faction founded by Aser Demotekay in 1963 in Jayapura, 2) an organization or faction founded by Terianus Aronggoar in Manokwari in 1964. These two factions operated underground.

3.2. Law Enforcement in Handling Conflicts Between OPM Papus and the Indonesian Government Based on a Justice and Humanity Perspective

The Papuan conflict is widely understood as a manifestation of disappointment among some Papuans regarding the implementation of the results and conditions in Papua after PEPERA in 1969. One of the results of PEPERA stated that West Irian (now West Papua) was part of the Unitary State of the Republic of Indonesia (NKRI). This disappointment was manifested in the rejection of Indonesian sovereignty in Papua. The most fundamental problem at the source of the conflict is the desire of some Papuan people to be independent since 1961. This desire then further developed after PEPERA 1969, pro-independence people did not see or feel the change in life, even though they had integrated with Indonesia.

Regarding the legal basis, the government has issued a strong basis for implementing this acceleration program. Starting from Presidential Instruction Number 9 of 2020 concerning the Acceleration of Welfare Development in Papua Province and West Papua Province, Presidential

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Decree Number 20 of 2020 concerning the Integrated Coordination Team for the Acceleration of Welfare Development in Papua Province and West Papua Province, and Law Number 2 of 2021 concerning Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province. Presidential Instruction Number 9 of 2020 concerning the Acceleration of Welfare Development in Papua Province and West Papua Province. Take steps and carry out breakthrough, integrated, precise, focused and synergistic steps according to their respective duties, functions and authorities in a coordinated and integrated manner to accelerate welfare development in Papua Province and West Papua Province.

The importance of addressing challenges in enforcing the law against violations of Human Rights (HAM) by Armed Criminal Groups (KKB) in Indonesia is not only focused on providing justice for victims, but also has a very broad impact in strengthening law enforcement, maintaining peace, and maintaining stability. in affected areas. Efforts to enforce the law against KKB involved in human rights violations have a very significant long- term effect in strengthening the foundations of law enforcement in Indonesia. When the state is able to enforce the rule of law fairly and without discrimination against perpetrators of crimes, including KKB, this sends a strong signal that the state holds a strong commitment to the principles of justice and law. This forms a solid foundation for strengthening the legitimacy of government and legal institutions in the eyes of the public, which in turn will increase public trust in state authorities.

Talking about Law Enforcement in Papua, no Apart from the name Human Rights (HAM), in the order of the national legal system within context of human rights violations, most cannot refer to the Law Republic of Indonesia No. 39 of 1999 Concerning Human rights. 21M;

1) Article 1 number 1: "Human Rights are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are His gifts which must be respected, upheld and protected by the state, law, government and every person for the sake of honor and protection of human dignity."

2) Article 1 number 5: "A violation of human rights is any act of a person or group of people, including state officials, whether intentional or unintentional or negligence, which unlawfully reduces, hinders, limits, and/or revokes the human rights of a person or group of people guaranteed by this law, and has not received, or is feared will not obtain, a fair and correct legal solution, based on the applicable legal mechanisms."

3) Article 2: "The Republic of Indonesia recognizes and upholds human rights and basic human freedoms as rights that are naturally inherent in and inseparable from humans, which must be

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protected, respected and upheld for the sake of increasing human dignity, prosperity, happiness and intelligence and justice."

4) Article 3 paragraph 3: "Everyone has the right to the protection of human rights and basic human freedoms, without discrimination."

5) Article 4: "The right to life, the right not to be tortured, the right to personal freedom, thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equal before the law, and the right not to be prosecuted on the basis of applicable law retroactively is a human right that cannot be reduced under any circumstances and by anyone."

6) Article 5 paragraph 3: "everyone who is a vulnerable member of society has the right to receive greater treatment and protection in relation to his/her specificity."

7) Article 52 paragraphs 1 and 2: "(1) every child has the right to protection by parents, family, society and the state."

Meanwhile the What is meant by serious human rights violations as regulated in Law Number 26 of 2000 concerning Human Rights Courts states that "Serious human rights violations are violations of human rights as intended in this Law (UU No. 26 of 2000)" Law No. 26 of 2000 Regarding the Human Rights Court, serious human rights violations include crimes of genocide and crimes against humanity. For more information about these two types of violations, we will explain in the sub-chapter forms of violations. Heavy human rights.²⁴ The criminal act of torture by KKB using sharp weapons and firearms which was planned in advance or also known as premeditated torture in the Criminal Code is regulated in article 353 which reads as follows;

Article 353 of the Criminal Code

(1) Persecution with premeditation threatened with criminal law four years' imprisonment.

(2) If the act results in serious injury, those who are guilty are subject to imprisonment a maximum of seven years. if the act results in death, those who are guilty are threatened with criminal penalties maximum imprisonment of nine years.

One of the important elements in the formulation article 353 above is an element of *voorbedachte raad* which was translated into Indonesian in the words planned in advance. In the opinion of Prof. Simons states that between the time an actor makes a plan and the time he carries out his plan there must be a certain period of time, because it is difficult for people

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to say that there was a plan in advance (voorbedachte raad) if the perpetrator turns out to have carried out the action immediately after he had the intention to do it. the act.

Based on Law no. 21 of 2001, the indigenous Papuan population received special attention. Special Autonomy mandates that development in Papua must be directed at improving life and empowering indigenous Papuan communities. This Special Autonomy policy is not only populist, but also affirmative, pro towards native people. This began to be realized in the Special Autonomy for Papua Province, which basically means giving broader authority to the province and the Papuan people to regulate and manage themselves within the NRI framework.

Athonius Aryobaba said that "Since implemented on January 1, 2002 to 2011, Law no. 21 of 2001 has not shown it real results. There were many problems. Even according to LIPI, the implementation of Special Autonomy from 2001 to 2004 didn't bring many changes significant at the level of the Papuan people themselves. The spirit of developing Papua with Special Autonomy not running optimally. That's a long journey accompanying the creation and socialization process The Special Autonomy Law is not commensurate with the results achieved and felt by society."

Meanwhile in the enforcement aspect law, Law no. 21 of 2001 provides space establishment of three commissions and one court specifically to uphold justice, namely: Commission Ad Hoc Law, National Human Rights Commission, Human Rights Court, as well as the Commission Truth and Reconciliation. However, implementation the articles have not yet materialized.

4. Conclusion

enforcement in the conflict between OPM Papua and the Indonesian government, taking into account the perspective of justice and humanity, is that an approach that takes into account human rights and seeks peaceful solutions is very important. Law enforcement must be carried out transparently, fairly, and prioritize the protection of civilians. In addition, conflict resolution must also include efforts to overcome social and economic inequalities and promote dialogue and reconciliation between all parties involved. Only with a holistic and inclusive approach can this conflict be resolved in a way that respects the rights of all individuals and supports sustainable peace in Papua. Up to a special law that explicitly regulates law enforcement in the conflict between OPM Papua and the Indonesian government from a justice and humanitarian perspective. However, law enforcement in the context of a conflict like this can refer to various existing laws and regulations, including national and international laws that regulate human rights, the protection of civilians in conflict, and the peaceful resolution of conflicts.

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