

## Conflict Mitigation in Papua through a Criminal Policy Approach with the Aim of Social Welfare

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### ABSTRACT

Papua, which is located in the easternmost region of the archipelago, was included in the Unitary State of the Republic of Indonesia on November 19, 1969 through UN Resolution no. 2504. This is also at the same time the basis for recognition of Papua's integration with the Unitary State of the Republic of Indonesia according to international law. The handling and handling of the Papuan conflict is treated in various ways, including through a criminal policy approach, where criminal policy itself is a criminal policy, namely a concept of the existence of community protection to achieve community welfare. Thus, it can be said that criminal politics is also an integral part of social politics. Now what then becomes a number of problems is how the rationale and principles that form the basis for Indonesia as a rule of law make Criminal Policy as one of the approaches that can resolve conflicts in Papua in the Supremacy of Law, which in general provide guarantees for human rights, what is the history of the Papua conflict and its impact on Indonesia, what is the right model for tackling the Papua conflict through a criminal policy approach (Criminal Policy) within the Indonesian rule of law, in an effort to improve the welfare of society (Social Welfare). Research on the problems above was carried out using qualitative methods. The type of research used is normative (normative legal research) by using an approach with legal interpretation methods, with the object of study being an inventory of laws and regulations related to Papua conflict management through a criminal policy approach and applicable positive laws related to law enforcement. on Conflict Management by promoting the concept of Social Welfare. Based on the results of the research on the problems above, the handling of the conflict in Papua, the Government of Indonesia continues to prioritize the concept of criminal policy or Social Welfare, this has been proven, until now those who carry out agitation are still considered as armed criminal groups and not referred to as separatist movements and terrorists. That apart from that, there are a number of things that need to be considered where the Papua conflict is a complex matter and requires an efficient and wise resolution, and the need to improve public understanding to increase the level of quality human resources in order to prevent conflicts from occurring.

### Keywords

*Conflict management, Criminal Policy, rule of law*

### INTRODUCTION

Papua is the easternmost region of Indonesia which joined the Unitary State of the Republic of Indonesia (NKRI) through an international agreement, namely the New York Agreement on August 15, 1962. Overall the area of Papua Province is 934.4 km. Geographically, Papua Province in the west is directly bordered by West Papua Province, in the east by Papua New Guinea, in the north by the Pacific Ocean, while in the south by the

Arafuru Sea. Papua, which is located in the easternmost region of the archipelago, was included in the Republic of Indonesia on November 19, 1969 through UN Resolution No. 2504. This is also the basis for recognition of Papua's integration with the Republic of Indonesia according to international law.

Papua has a very strong influence on National Resilience, especially from the aspect or gatra of the region and population. From an economic point of view, in Papua the price of necessities is different than other regions-given that access is quite long that needs to be taken to distribute these materials, so that when there is a process of traveling in the field there are soaring prices, due to geological factors Papua which tends to be hilly highlands so it is difficult to supply basic necessities. The gap between local natives and migrants is striking. The lack of equitable development in Papua has resulted in Papua lagging behind with other provinces. And the prolonged conflict in Papua has further aggravated conditions in the region. This is also concerning because the prolonged conflict in Papua is a major threat to National Resilience and originates from within the country.

The problems faced by Papua above also affect the rise of organizations in the form of movements classified as the Papuan Separatist Group (KSP). Current KSPs in Papua include: the Free Papua Organization (OPM), the West Papua National Committee (KNPB), and the United Liberation Movement for West Papua (ULMWP). If they commit violence using lethal weapons, they will be categorized as an Armed Criminal Group (KKB).

It is organizations like these that are often the cause of conflicts that arise in Papua. With the idea of separatism alone, they can stimulate violence. The problem of separatism has recently become increasingly worrying. If the security situation continues to deteriorate, many observers predict that the Papua region will be separated from the Republic of Indonesia. The signs that Papua will soon be separated from the Republic of Indonesia are very clear. They currently suspect that they already have sponsors who are ready to support the independence of this region in eastern Indonesia, even Papua is now very ready to be separated from Indonesia. The rise of shootings and blockades by Papuan separatist groups has disturbed the Papuan people. Shooting targets are now not only TNI and Police officers, but the general public and Freeport employees are now targeted. So it is not surprising that almost every day there are blockades and shootings by unknown people who are believed by many to be Papuan separatists.

Therefore, they carry out active international campaigns and raise sensitive issues about Papua to the United Nations (UN), and also to various countries. Despite rampant efforts, there is not a single country in the world that recognizes that Papua is a state. Indeed, many countries support Papuan independence, but all of them still recognize Papua until now as part of the Indonesian state. This fact is proof that the separatist movement has lost its way. When in the past they failed in fighting in Papua through violence, terror, and so on, this time they also failed to influence the international community to recognize them as a state. Supporting independence is very different from recognising Papua's sovereignty as a state. Fighting on the international front can indeed win international public opinion. However, in the context of a country's sovereignty, public opinion cannot be used as a measure. Its main parameters are international law recognized by the international community, including the United Nations.

The Papua conflict has one unique thing, which distinguishes it from other local conflicts in Indonesia. This uniqueness is the existence of Papuan nationalism that has been embedded in the Papuan people for decades. It is this sense of nationalism that encourages the Papuan people to hate the colonization of them, both by the Netherlands and Indonesia. Papuan nationalism, which began to be instilled by the Dutch when a civil service school was established in Holland, was embedded and socialized from generation to generation. When the Netherlands and Indonesia were not the expected parties, the Papuan people saw both as nations that wanted to rule Papua. This thinking is why the anti-Indonesian movement is very strong and easily widespread in Papua. The repressive policies of the New Order period were not able to extinguish this nationalism, but rather strengthened it.

Against rioters who violate the law, the police can take strict action in accordance with applicable law in Indonesia. As for separatism groups, the Indonesian National Army (TNI) is at the forefront of securing Indonesia's national interests and sovereignty. Any treason attempt that interferes with national interests, then the TNI can take firm action against separatist groups by conducting military operations to stop riots, chaos and riots caused by the group.

For a humanist approach, the government immediately embraces community leaders, both indigenous people and migrants in Papua. Indigenous leaders and migrants must be given counseling as well as direction to invite all elements of Papuan society to stop the ongoing violence. Massive socialization is needed that the existing conflicts are contrary to the spirit and values of Pancasila where the spirit of unity and unity of the nation must be maintained.

Indigenous people and migrants, all of them are Indonesian citizens who are united based on the spirit of divinity, equality of humanity, unity, consensus and have the ideal of social justice together. We all believe that the spirit of Pancasila still exists, continues to be present and is able to re-knit the brotherhood of the nation's children and be able to reduce conflicts that actually harm the Indonesian nation.

Based on this background, the author conducts further discussion in the form of research on one of the government's approaches in resolving the conflict in Papua, namely related to a structural and humanist security approach with cultural values. Where this approach must be maximized by prioritizing applicable laws in Indonesia.

## **METHODS**

Research in law enforcement on Papua Conflict Mitigation Through a Criminal Policy Approach as an Effort to Prosper the Community (Social Welfare) in the Indonesian Legal State, is a Normative Legal Research (Normative Legal Research). Normative Legal Research is legal research that puts the law as a system of norms. The norm system in question is about principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings).

The object of study in law enforcement research on Papua Conflict Mitigation through the Criminal Policy Approach as an Effort to Prosper the Community (Social Welfare) in the Indonesian State of Law, is carried out by research on the inventory of laws and regulations related to Papua Conflict Mitigation through a Criminal Policy Approach (Criminal Policy) and comparative research of law to positive law in force in countries others are related to law enforcement against Papua Conflict Mitigation through a Criminal Policy Approach.

The approach methods used in this article are: a) statute approach; b) comparative approach; and c) conceptual approach. The main source of data in Normative Legal Research is literature data. In legal literature, the source of the data is referred to as legal material. Legal material is anything that can be used or is necessary for the purpose of analyzing applicable law. Legal materials studied and analyzed in Normative Legal Research consist of: 1) Primary Legal Materials; 2) Secondary Legal Materials; and 3) Tertiary Legal Materials. Data sources as legal materials used in dissertation research on Papua Conflict Mitigation Through a Criminal Policy Approach, as an Effort to Prosper the Community (Social Welfare) in the Indonesian Legal State are public legal materials in the form of archival data, official data from government agencies, and other data, namely Court Decisions or Jurisprudence from the Supreme Court.

## **RESULTS**

### **A. Rationale and Principles on which Indonesia is based Make Criminal Policy an approach that can resolve conflicts in Papua in a Supremacy of Law manner.**

So based on the interpretation of criminal policy itself which is that criminal policy or criminal policy (criminal policy) is a rational and organized effort of a society to overcome crime. Where this definition is taken from Marc Ancel who formulated it as "the rational organization of the control of crime by society". In conflict resolution, this has a relationship with the enforceability of the law as the main foundation in the enforcement of regulations and provisions where the law is used as the highest reference in carrying out a judicial process or known as a rule of law.

The rule of law is an absolute prerequisite for the administration of state life based on the sovereignty of the people. The rule of law means the constitutional guarantee that the exercise and enforcement of the law in the political process, exercised by executive, legislative and judicial powers, will always rest on the authority prescribed by law.

Four important elements in the rule of law (*rechtsstaat*), which characterize the establishment of the rule of law include:

- 1) Guarantee that the government in exercising its power is always carried out on the basis of laws and regulations.
- 2) guarantee of legal protection of fundamental rights,
- 3) a clear, fair and consistent division of state power, and
- 4) legal protection of judicial bodies against governmental action

In terms of the use of criminal policies in conflict management that occur in Papua, this also refers to several legal principles which correlate the application and implementation of criminal policies that need to be applied in order to resolve problems that occur in the Papua region in terms of eradicating separatist groups which are increasingly growing and become social and ideological problems that need to be corrected immediately.

In its use, criminal policy is certainly used only on serious problems which in terms of the impact of a crime or act has a very broad impact and causes significant problems on every line both in society, social, economic and most importantly causes hampering the lives of many people.

In this case, of course, people in the Papua region who are trying to become good citizens in accordance with the applicable legal principles are also entitled to the same justice in the eyes of the law where in the mandate of the constitution it has also been explained that everyone has the right to get a decent life and get

a sense of security and comfort in life, so in this case the government also needs to pay serious attention to the enforcement of criminal policies implemented by Full of consideration and careful preparation.

Because in terms of based on the explanation that has been conveyed that the urgency of eradicating the problems that occur in the Papua region has also become so complex and complicated that various solutions need to be applied to find which way is appropriate and measurable in terms of resolving conflicts that occur in Papua.

So it can be said that the foundation of the enactment of criminal law policy in resolving conflicts in the Papua region is as a last resort based on the nature of criminal law itself which is "Ultimum Remedium" where in its application there needs to be a determination in using the regulatory method promulgated in a regulation where whether the method is the best method in fulfilling the requirements for justice and has useful power efficient, considering that the conflict that occurred in Papua is a conflict that has triggers from various aspects where the peicu itself grows from dissatisfaction with some Papuans about the government's performance and the government's treatment of the Papua region which is often stepsoned by the government.

So the rationale in the use of criminal policy in the Papua conflict can be said that criminal policy as a criminal politics then literally with the application of this criminal policy method, it is hoped that the government can use a policy method that is elemental to punishment with approaches in accordance with the theory of criminal law in force in Indonesia, where in this case the government also needs to consider that in This application requires the right scheme structure in its application, considering that in terms of its application in the Papua region, often because in this case the region is an area where there have been several armed contacts, sometimes law enforcement and military officials often prioritize open conflict in the community rather than promoting open dialogue and communication.

Therefore, there is a need for a special scheme in the application of criminal law policies based on an understanding of criminal policy itself in its application in the Papua region in order to achieve a settlement and resolution of conflicts and problems that often occur in the Papua region.

## **B. Dynamics of Conflict in Papua After the New Order**

### **1. The Influence of the Reformation Era on Government Policy in Papua**

The era of reform in Indonesia began with the resignation of Suharto's lenderal (Pum) as President of the Republic of Indonesia. Suharto's resignation was partly due to the constant prates of students and the people against undemocratic government policies, amidst the staggering social and economic conditions. Finally, on May 21, 1998 Vice President B. J. Habibie was then inaugurated as President to replace Suharto. The reform era opened up opportunities for the ongoing political rephonnation towards democracy in Indonesia.

Since May 1998, Indonesia began to enter an era of liberal politics, where basic human rights principles, such as freedom of expression, were highly valued. The political landscape in Jakarta has also changed drastically, for example with the development of civil society groups, political parties, trade unions, and the publication of new uncensored media. Major changes cannot be separated from the role of former Presidents Habibie and Abdulrahman Wahid in supporting freedom of speech, especially for members of the Press through amendments to the Constitution and the establishment of new legal instruments that protect it.

The government's approach to managing the Papua conflict has also changed between before and after the reform era. After the New Order era, the government emphasized more repressive approaches by making Papua a military operation area (DOM) while implementing capitalistic development policies. While during the refonnation period, the government began to approach accommodation to gain the support of the Papuan people. The initial policy taken by President BJ Habibie's government towards Papua was to abolish the DOM policy in October 1998.

Meanwhile, in Papua, the collapse of the New Order rule in 1998 was the beginning to express the aspiration for independence in an open manner, which was marked by the raising of the Morning Star flag in almost all of Papua. In fact, on February 26, 1999, when 100 Papuan figures were invited by President Habibie to the country to discuss development in Papua after the New Order, Tom Beanal, the most respected Papuan figure, at that time issued a statement calling for Papua independence from Indonesia. Habibie was surprised and paused for a moment when he heard this aspiration. Shortly thereafter, Habibie answered the wishes of the Papuan leaders by offering to expand Irian Jaya Province. However, Habibie's action in expanding Irian Jaya province caused a time bomb in the future.

The government's accommodating actions towards the Papuan people were also very visible during the era of President Abdulrahman Wahid's leadership. President Wahid on January I 2000 publicly apologized to the Papuan people for human rights violations committed by the TNI. On this visit to historic Papua. The President also approved changing the name of Irian Jaya Province to Papua. According to Wahid, the agreement was not the result of anyone's pressure. but because the name Irian Jaya is a maniptolation of Arabic which means naked. Start now. the name of Irian Jaya became Panua. Maybe that time. Arap's

shepherds saw that his friends here were still wearing koteka. Wahid said during a dialogue with Irian Jaya community leaders in Jayapura.

Moreover, Abdurrahman Wahid even went all out to win the hearts of Papuans, among others. By appointing Irian Jaya Governor Freddy Numberi as Minister of Apparatus Empowerment, President Wahid also supported the holding of the Second Papuan Rakya Congress on May 29-June 3 to unite the aspirations of the Papuan people. Even Abdurrahman Wahid also contributed Rp I billion to the Presidium of the Papuan Council (PDP) for the costs of organizing the Papuan People's Congress. Wahid also provided other freedoms. That is, the "Morning Star" flag may be flown next to "Red and White". Although this move received sharp criticism from Jakarta. President Wahid remained true to his belief that the morning star flag was a cultural symbol rather than nationalism of the Papuan people.

## **2. Community Conditions in Papua After the New Order**

Papua Province is located in the easternmost location of the Indonesian archipelago. Based on BPS data in 2000, the population of Papua reached 2.1 million, where more than 800,000 of the total population are migrants from the western region of Papua. The rapid growth in the number of migrants in Papua in post-New Order was the result of Indonesia's transmigration program that began in 1964. In addition, migration was also carried out spontaneously by other Indonesian citizens on a large scale in the 1990s. In many cases in Indonesia, as well as those in Papua. To accommodate new arrivals to the transmigration program, relevant authorities often marginalize indigenous people from their places of origin. In addition, the army is also tasked with providing security for the migrant population. With this kind of support, the relocation program of land ownership and economic control of migrants runs smoothly. So that at the end of the New Order rule the number of non-Papuans reached 40 percent and they dominated the local economy and local government apparatus. In addition, vertical positions that connect the Central Government and Regional Government are also domiciled by migrants. Until the end of the New Order. Indigenous Papuans only get limited opportunities in regional autonomy agencies such as the position of Head of Service. The granting of government positions by migrants under the pretext that Papuans are considered incapable of holding these positions.

A field research report conducted by Yappika (2001). Respondents reported that to occupy certain evils natives were subject to severe conditions. For example, it must match, like an angel, who are perfect and will do no wrong. While the immigrant *umuk*. The requirements are not strict. Similarly, according to a police officer. His fellow migrants were able to quickly and easily move up the ranks, whereas he and his fellow indigenous Papuans were very difficult. Therefore, after the New Order there was strong criticism from the Regional Government and the Papuan people against the transmigration program. This program is considered unnecessary because it does not contribute to the empowerment of indigenous Papuans. In fact, this program is often referred to as the "Jawanisasi", "Islamisasi" program, and "Colonization". So in the 1999/2000 fiscal year the Papua Regional Government changed the composition of placements from 80 percent migrants and 20 percent local, to 70 percent local and 30 percent migrants.

## **3. The New Face of the Conflict Map in Papua After the New Order**

The reform era has an important meaning in looking at the conflict map in the post-New Order Papua region. This is marked by the *regese ran polapol* a movement of actors directly involved in the Papua conflict. By knowing the shift from the movement pattern. Therefore, various interests of actors involved in conflict in Papua can be mapped in order to find conflict resolutions to seek a comprehensive resolution of the Papuan conflict. The various actors in the Papuan conflict who are directly involved are:

- a) Free Papua Movement (OPM)
- b) Presidium of the Papua Council (PDP)
- c) Churches in Conflict Areas
- d) Military: Contested Domination
- e) Regional People's Representative Council (DPRD) of Papua
- f) Business Group

## **4. Triggers New Conflict in Papua**

- a) Expansion into 3 (Three) Provinces in Papua

The idea of dividing Papua province into several provinces has actually existed since the Dutch East Indies era. During this time, the colonial government had divided Papua into six residencies (provinces). This division is based on the proximity of the territory, the effectiveness of government, and customary/tribal ties among the inhabitants of the region. The idea of expanding provinces in the New Order era emerged during the Governor of Irian Jaya led by Busiri Suryowinmo. Based on the results of research by the Ministry of Home Affairs, if the country's economic conditions allow and the process of regeneration of government officials from regional sons is sufficient for the minimum bureaucratic structure of the provincial level government. The

division of the region began with three and then became six provinces according to the six residencies during the Dutch government in Irian Jaya. However, this expansion plan was not carried out during the Suharto administration. The idea of Papuan expansion emerged in the reform era. The governor of Irian Jaya province, Freddy Numberi, proposed the division of the province into three. The Habibie government at that time, thought that the idea of pemekaran was able to accelerate economic development in Papua. In addition, by dividing Papua, it can reduce the demand for Papuan independence. Habibie issued Unclang-Law Number 45 of 1999 on the Establishment of Central Irian Jaya Province. West Irian Jaya Province. Paniai County. Mimika County. Kabupaten Puncak Jaya and Sorong City. In addition, President Habibie also issued Presidential Decree No. 327 of 1999 on October 12, 1999 which appointed deputy governors Herman Monim and Bram Alururi. Each as Governor of Central Irian Jaya and West Irian Jaya. But. when Law No. 45 of 1999 and Presidential Decree No. 327 of 1999 were tried to be implemented, Papuan people made unexpected realizations. For a massive taste lasted until finally October 16, 1999. Eventually. The Papuan DPRD issued Decree No. 11 of 1999 which essentially rejected the division of Papua Province into three provinces. Tom Beanal, deputy chairman of the DPP revealed that the division of the three provinces as done by the Central Government was more of an economic approach. "It is natural because indeed Indonesia always sees this Papua, as their future to continue their lives with the wealth of natural resources in this land. Because of the balance of the socio-political situation at the time. Habibie took a legal step, namely delaying the implementation of Law No. 45 of 1999 and canceling Decree No. 327 of 1999 because it was not in accordance with the aspirations of the people of Irian Jaya.

Special Autonomy Policy (Otsus) in Papua Serelah failed the expansion of Papua. The existence of West Irian Jaya Province and Central Irian Jaya became unclear. even though the governor's rejaol was inaugurated on October 12, 1999. In I"ngah the clarity arises. in Jakarta in the same month the MPR General Session was held. At this hearing. President Habibie's accountability was rejected by the MPR, finally the MPR chose Abdulrahman Wahid as President and Megawati Soekarnoputri as Vice President.

An important step was taken at this MPR session in order to reduce the prolonged conflict between Jakarta. Aceh and Papua. The People's Consultative Assembly (MPR) Decree No. IV/1999 concerning State Direction Outline (GBHN) of 2004 and MPR Decree No. IV/2000 concerning Recommendation of Regional Autonomy Implementation Policy. Second, this MPR decree is the beginning of a national policy on the transition of a centralized government system to decentralization in Indonesia. Especially for Papua and Aceh. In order to suppress demands for independence in these two provinces were designated as special autonomous regions.

Although the government's policy on Papua's special autonomy is considered involved. because at this time. The idea of secession from Indonesia as a result of the Second Papuan People's Congress has received widespread support from the Papuan people. In the midst of this difficult situation. to prevent deadlocks against the demand for independence. A group of intellectuals from Universitas Cendrawasi (Uncen) and NGOs discussed the idea of special autonomy. After J.P. Solossa was elected Governor of Papua. A concrete and comprehensive process for realizing special autonomy begins. The Governor with the Speaker of the DPRD Irian. Nathaniel Kaiway. Former Rector of Uncen. August Kafiari and Uncen Rector, Frans Wosparik and Papuan leaders prepared an academic study as well as a draft on the Papua Special Autonomy Law to be proposed to the Central Government and DPR. After a long debate on November 1, 2001, the Government and the People's Representative Council enacted Law Number 21 of 2001 concerning Special Autonomy for Papua Province. Papua's Special Autonomy grants significant powers to local governments and guarantees cultural and religious rights to citizens. It also guarantees that 80 percent of forest, fisheries, and mining revenues—and 70 percent of oil and gas revenues—go to local authorities. The Special Autonomy Law also guarantees customary law and establishes institutions to accommodate Papuan aspirations and guarantee the rights of oppressed tribes.

Moreover. Special autonomy also provides freedom to form political parties, local police, create village representative bodies and facilitate settlement of land disputes through customary negotiations. The Special Autonomy Law allows the establishment of the Papuan People's Council (MRP) to protect the interests of indigenous people in the development process. Even the Special Autonomy Law is considered very aspirational for the protection of Papuan women. Article 19 Paragraph 1 states that one-third of the total membership of the Papuan People's Council (MRP) is women's representatives. This means opening up possibilities for women to represent religious and indigenous peoples. This opportunity approaches the participation of women in various developed countries, especially Europe. "Papuanisation" will also be implemented immediately for all Papuans to take care of themselves. The Special Autonomy Law stipulates that the office of Governor. The MRP Deputy Governor is a native Papuan. Likewise, the recruitment of local police and civil bureaucracy must give priority to indigenous people. Thus, the problems of poverty, backwardness and ignorance that are afflicting the Papuan people will soon be overcome through this Special Autonomy Law. This is indeed very reasonable because according to the Governor of Papua Solos".. County officials will get considerable income. The first year of implementation of provincial-level revenue autonomy will triple to Rp 2.5 trillion from Rp 800 billion the previous year. This amount consists of Rp 1.38 trillion which comes from "special autonomy

allocation plus Rp 400 billion from the center and lobbying revenue of Rp 700 billion. Thus, efforts to catch up with Papua with other provinces in Indonesia will soon be realized. In short, UUNo. 21/2001 on Regional Autonomy has truly accommodated all the injustices felt by the Papuan people during their integration with Indonesia

b) Problematic Presidential Instruction (Inpres) No. 1 of 2003

Granting Special Autonomy to Papua is a very appropriate policy of the Central Government. Not only because it has a juridical-constitutional basis but more importantly politically the presence of policies shows the expertise of the Central Government to prevent Papuans from separating from the Unitary State of the Republic of Indonesia. Otsus is a middle way to reunite the nation. Special autonomy is also a suitable way to accelerate the development of the land of Papua. Various groups in both Jakarta and Papua believe that the implementation of special autonomy policy will be able to reduce the upheaval and demand for independence in Papua. In addition to receiving broad support from within the country, including the Papuan people, the special autonomy policy also received broad support from the international community. " In the midst of optimism towards Papuan special autonomy. On January 27, 2003 President Megawati Soekarnopurri issued Presidential Instruction (Inpres) Number I of 2003 concerning the Acceleration of the Implementation of Law Number 45 of 2003 concerning the Establishment of Central Irian Jaya Province, Irian Jaya Barat Province, Paniai Regency, Mimika Kabupaten, Puncak Jaya Regency and Sorong City. This new policy was first conveyed to the public by a member of the House of Representatives, Ahmad Farhan Hamid, during a President-House consultation meeting. The reason the government issued the Presidential Instruction according to Hamid was because Papua Province was considered too large. If expansion is carried out, there will be government effectiveness so as to accelerate economic development in Papua. Megawati's Government steps received strong opposition from Papua. Chairman of the House of Representatives of Papua Province, Drs John Ibo, said that the DPRD did not agree with the plan. "I strongly disagree with this expansion plan. Because this expansion plan will only disrupt Law Number 21 concerning Special Autonomy," said John. Papua Governor Jacobus Solossa criticized the Central Government policy in a very subtle way. Rejection was also carried out by indigenous leaders, students and grassroots people. At least 5000 students from various public and private universities in Kola Jayapura, together with community loko, religion, customs, women and churches protested at the Papua DPRD Office. "Not only in Papua, Papuan students in Java, Bali and Sulawesi also do the same. Indonesian jurists also strongly reject Presidential Instruction No. 1 of 2003 for violating the principle of *lex superior derogat lex inferiori* (higher rules override lower flows)." Constitutional law experts. Prof. Harun Al Rasid. Presidential Instruction No. I of 2003 concerning the expansion of Papua is legally flawed because it contradicts Article 76 of Law No. 21 of 2001. In the Article it is clearly stated that the division of Papua province must be carried out with the approval of the Papuan DPRD and the Papuan Rakyat Council. Bambang Widjojanto. He made a very strong criticism, that President Megawati had violated the constitution because Presidential Instruction No. 1 of 2003 affirmed a special Regional Government guaranteed by the constitution. The strong rejection in Papua against the enactment of this Presidential Instruction does not reduce the intention of the Megawati Government to revoke or revive the idea of expansion. Finally, when the province of Central Irian Jaya was declared, horizontal conflicts between the masses were pros and cons that could not be avoided. A day after Central Irian Jaya (Irja) Province in Timika was declared, on Sunday (24/8) at 16.00 local time there was a clash between groups pro and con pemekaran province. The incident occurred at the location of the Central Irian Jaya Governor's Office at Graha TDS Jalan Cenderawasih. As a result of the incident on Sunday evening a lewas, seven were injured-Iuka. The situation in Timika until Monday (8/25) afternoon became more heated, three people died due to clashes on Sunday (8/24) evening." After the bloody conflict in Papua occurred, the cabinet in Megawati's government immediately accused each other and washed their hands. The Ministry of Home Affairs stated that it had never proposed the issuance of Presidential Instruction No. 1 in 2003. "Cook we asked the President to order us to do our own tasks," said Regional Autonomy Director General Oeltarro. The Minister of the Interior did the same. The central government admitted that it did not know the declaration process of Central Irian Jaya Province (Iriateng) last Saturday (23/8). "We also don't know why it suddenly happened (the declaration of the new province)," Home Minister Hari Sabarhoh said

Various analyses in Jakarta and Papua revealed that military intelligence circles were accused of introducing the idea of accelerating expansion. One of the main motives is to "tame" the demand for independent politics in Papua. By dividing Papua, the demand for independence will be fragmented, along with the military to control the situation. This is supported by the results of public opinion surveys in Papua affirming that aspirations for independence are the highest among Papuans (see Papuan-Indonesian general opinion survey 28/2 IFES). In addition, there are also other signals that expansion will be part of the security "business" because security agencies will remove economic rents from that process." Papuan activist Muridan S. Widjono pointed out directly that the idea of pemekaran came from the military and political elite in Jakarta whose power was threatened after special autonomy in Papua.

According to Muridan, Jakarta sees Papua Province with special autonomy where later a Papuan people's assembly will be formed, then Papua will become an entity that is difficult for Jakarta to control. Therefore, the interests of Jakarta's elites will be threatened both in business and politically. This can be seen from the formation of Central Irian Jaya, where the elites who wanted to form a new province were closely related to the elites in Jayapura and Jakarta who collaborated with the army. Likewise, if we look at the province of West Irian Jaya, Ataruri (New Governor) is a soldier. However, this analysis was strongly denied by the Head of the State Intelligence Agency (BIN) Hendropriyono. The Presidential Instruction made the Minister of Justice and Human Rights (HAM). "There is no that, it is not true," Hendropriyono said when reporters confirmed the military's involvement behind the Papuan expansion. However, the head of BIN agreed with the expansion of Papua Province to shorten the control of the government there. Seeing the uncontrollable situation, on August 27, 2003 to prevent a wider horizontal conflict in Central Irian Jaya, the Megawati Government through the Coordinating Minister for Politics and Security, Susilo Bambang Yudhoyono, decided to postpone the expansion in Papua Province and make it the status quo. But the government still persists in not canceling Papua's entrenchment policy. In fact, the government accuses the Papuan people of misjudging the idea of expansion. There is not yet the same perception between the pemekaran policy and the implementation of special autonomy among our brothers in Papua," said Yudhoyono. "The Megawati Government's inconsistent attitude in resolving the Papua conflict has received sharp criticism not only in Papua and Jakarta, but also in international circles.

#### c) Papuan conflict in the eyes of the international eye

For the Indonesian government, the process of reclaiming Papua's post-reform history is one of the deliberate ways established by pro-independence Papuan groups to achieve their goals. They created public opinion that the unification of Irian Jaya into Indonesia after the 1969 Act of Free Choice was illegitimate, said Matori Abdul Djalil, Indonesia's defense minister.

According to Matori, efforts to internationalize the issue of Papua are increasingly being carried out by this group, after seeing Timor-Timor's success in achieving independence by building a strong international network. This is well realized by the Papuan people, therefore in the Second Papuan People's Congress an international observer from Papua Victor Kaisiepo, expressed the importance of involving the United Nations in achieving an independent Papua. If we want to talk about an independent Papua, the Papuan people must encourage this issue to be discussed by the United Nations. Kaisiepo emphasized that independence can no longer be achieved through coercion but through struggle for the basic rights of indigenous Papuans. This is in line with the Universal Declaration of Human Rights that every indigenous people in a region have basic rights that must be respected. Therefore, since the reform era, especially after the Second Papuan People's Congress, the battle between pro-independence Papuan groups and Jakarta has focused on a diplomatic war for international support.

During the reigns of Abdulrahman Wahid and Megawati. these two governments made many foreign visits to seek support for the territorial integrity of Indonesia. Despite sharp criticism from within the country, visits by heads of state abroad have shown tangible results. The Netherlands, through the Dutch Dukes for Indonesia, Baron Schelto van Heemstra, affirmed that his government highly respects the territorial integrity of the Unitary State of the Republic of Indonesia. The desire of some Papuans to secede from Indonesia was sparked in the results of the Papuan Rakyat Congress. For the Netherlands it was an internal affair of Indonesia. The British government continues to support Papua as a territory of the unitary state of Indonesia and does not support efforts to separate Papua from the Indonesian state. But the British called on the Indonesian government to immediately build a democratic system that is truly in favor of the interests of the people. including the right to get one good life than ever before through special autonomy. The same was also expressed by the Prime Minister of Japan, Juniehiro Koizumi, after meeting President Megawati at Akasaka Palace. Koizumi reiterated his commitment to fully support the territorial integrity and integrity of the Unitary State of Indonesia, although he still believes that the best way to resolve conflicts peacefully is dialogue on the basis of special autonomy as the final exit of Australia and Papua New Guinea which is often seen as potential in increasing the power of pro-independence groups in Papua. news that John Horwarli's visit to Papua New Guinea to discuss efforts to help Papua become a country separated from Indonesia. This news was immediately denied by Hasan Wirajuda, Minister of Foreign Affairs of Indonesia, who revealed that Papua New Guinea and Australia from the beginning had affirmed their position in supporting Papua Province as an integral part of Indonesia. So it is with New Zealand. The United States and China. These various supports, especially by developed countries are based more on trade and investment interests in Indonesia, which makes the governments of these countries officially declare support for the territorial integrity of Indonesia. The pro-Papuan independence movement also lobbied for diplomatic independence support. This movement has resulted in the success that two countries in the Pacific, Vanuatu and Nauru, support Papua's independence from Indonesia openly. "Vanuatu supports West Papua's struggle for independence," said Vanuatu Prime Minister Edward Natapei. Other Pacific countries, such as Fiji, and countries in Africa also provide hidden support for Papuan independence on the basis of fellow Indonesians and fellow blacks.



Although the diplomatic war for international support has until now been won by Jakarta, this does not mean that this support is impossible to change. The Timor-Timor case should serve as a valuable lesson for Jakarta, even if international support is usually reversed immediately, if there are conditions that allow it to be revoked.

### **c. solutions that can be taken in resolving the Papua conflict**

Referring to the criminal policy method used in this paper, in this case the solution that can be used in this case that seeing the complexity of the problems that occur in Papua, in this case it can be explained that the right solutions in carrying out problem solving in terms of resolving the conflict in Papua, in this case considering some factors that are indeed very substantial in the Papuan conflict, it is said that the conflict Papua needs a significant and solutive method of resolution so that it can not only resolve the conflict but also prevent further conflicts that occur in the future.

Referring to the method put forward in this paper, namely the criminal policy method, of course in this case that in accordance with the description of the understanding of criminal policy itself is that the rational and organized effort of a society to overcome crime, in this case what needs to be done is to find the root of the problem, in this case what we know is that one of the most significant problems in the Papua area is the lack of equitable sectors education and human resource development so that in this case it can be said that there is a need for improvement in Social Engineering in terms of resolving conflicts in Papua, in addition to that in the management of natural resources and the development and improvement of regions in Papua is also a significant thing to happen because in this case of course the Papuan people have not felt progress in terms of UM facilities and infrastructure built in the Papua region.

In addition, it is also necessary to fix the government bureaucracy that runs in the Papua region, of course, it is an open secret that if the Suatau Regional Government is managed by a regional government that does not pay attention to the development and condition of its territory and only prioritizes the interests of usury, it is certain that there will be many conflicts in the region. Based on several studies that have been conducted by government strategic or partial study bodies, it is proven that in bureaucratic management in the Papua region there are still many inconsistencies and misalignment in the implementation of public services in their implementation in the field.

Again in terms of the main method used in resolving the Papua conflict, it is necessary to look again at the understanding of criminal policy which is a rational effort from the community to prevent crime and react to crime, then in this case significantly there are several things that need to be observed, including that there is a need for an effort to eradicate the crime where in this case the government needs to do conflict resolution methods that often cause friction in the Papuan community whose triggers come from various factors that have been described, and the need for a reaction to these crimes in the sense that the government needs to eradicate groups that contribute to making noise and divide and carry out separatist actions against the sovereignty of the Indonesian state.

#### **1. General Form of Settlement**

Here are some things about solutions that need or can be taken in resolving the Papua conflict:

- a. Crisis Prevention
- b. Safety Valve
- c. Managing gaps between community groups
- d. Eradicate Feelings of Low Self-Esteem
- e. Protection of Vulnerable Groups
- f. Rectifying Deviations

#### **2. Penal and Non-Penal Forms of Settlement**

In resolving conflicts that occur in Papua, there are several things that need to be observed, namely that the conflict that occurs is a problem where the trigger for the conflict. In the configuration of the criminal policy itself, which is essentially a political system in criminal law, in the method of solving there are also several forms and models of settlement, namely:

- a. Settlement in Penal form (Criminal Punishment)
- b. Non-Penal Settlement (Prevention Without Criminal Punishment)

In addition, related to the policy taken in conflict resolution in Papua in the form of Non-Penal, namely the Special Autonomy Policy for Papua and West Papua Provinces which is a policy expected not only to overcome conflict problems, but also to accelerate development in Papua and West Papua Provinces. There are at least 4 (four) special autonomy objectives for Papua Province (Otsus Papua), namely:

- 1) improve the standard of living of the community;
- 2) realizing justice, upholding human rights, rule of law, and democracy;
- 3) recognition and respect for the basic rights of Indigenous Papuans (OAP); and
- 4) implementation of governance.

As a form of joint effort of the House of Representatives and the Government in listening to the aspirations of the Papuan people, on Thursday, July 15, 2021, the Session Period V of the 2020-2021 Session Year was approved together with the Draft Law on the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province, which has also been promulgated into Law Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province. Papua Province. The second amendment to the Law on Special Autonomy Papua (hereinafter abbreviated as the Second Amendment Law on Special Autonomy Papua). The Second Amendment Law on Special Autonomy Papua contains 18 (eighteen) revised articles and 2 (two) additional articles, so that there are a total of 20 (twenty) articles. Through this change, it is expected to correct and perfect various shortcomings in the implementation of special autonomy over the past 20 years to be more targeted in order to improve the dignity and dignity of the people in Papua, especially indigenous Papuans as part of the Unitary State of the Republic of Indonesia.

There are 7 (seven) important points from the Second Amendment Law on Special Autonomy Papua, namely:

- 1) The law a quo accommodates the specific arrangements of OAP in the political, educational, health, employment, and economic fields and provides support for the development of indigenous peoples.
- 2) Provide legal certainty that the Papuan People's Council (MRP) and the Papuan People's Representative Council (DPRP) are domiciled in each provincial capital city and by providing explanations regarding the naming of each institution.
- 3) Delete two paragraphs in Article 28 of the Law a quo related to local political parties in accordance with the Constitutional Court decision Number 41/PUU-XVII/2019, so that the membership of the DPRP and DPRK in addition to being elected is also appointed from OAP elements.
- 4) Special autonomy fund has increased from 2 (two) percent of the General Allocation Fund to 2.25 (two point twenty-five) percent.
- 5) The existence of a Special Agency for the Acceleration of Papua Development (BK-P3) to improve the effectiveness and efficiency of development in Papua.
- 6) The existence of provincial divisions in Papua which in addition to being able to be carried out with the approval of MRP and DPRP, can also be carried out by the Government and DPR without going through the preparatory regional stage.
- 7) Implementing regulations in the form of Government Regulations (PP) are formed no later than 90 (ninety days) of work and Provincial Regional Regulations (Perdasi) no later than 1 (one) year, where specifically for PP is consulted first with the DPR, DPD, and Regional Governments in each province.

One of the important materials in the Second Amendment Law on Special Autonomy Papua is related to the division of provinces and districts / cities in the Papua and West Papua regions. In the Second Amendment Law on Special Autonomy Papua, pemekaran can be carried out in two ways, namely the division of provincial and regency / city areas through the approval of MRP and DPRP (Article 76 paragraph (1)) and the expansion carried out by the Government and the House of Representatives of the Republic of Indonesia into autonomous provinces and districts / cities without preparatory areas as stipulated in the Law on Regional Government (Article 76 paragraphs (2) and (3)). These two points have been reaffirmed in Article 92 and Article 93 of Government Regulation Number 106 of 2021 concerning the Authority and Institution for the Implementation of the Special Autonomy Policy of Papua Province.

On July 25, 2022, three laws have been passed related to the establishment of new provinces in Papua, namely Law Number 14 of 2022 concerning the Establishment of South Papua Province, Law Number 15 of 2022 concerning the Establishment of Central Papua Province, and Law Number 16 of 2022 concerning the Establishment of Mountain Papua Province. With the passing of these three laws, Papua currently consists of five provinces, namely Papua Province with the capital Jayapura, West Papua Province with the capital Manokwari, South Papua Province with the capital Merauke, Central Papua Province with the capital Nabire, and Mountain Papua Province with the capital Jayawijaya.

The House of Representatives and the government are of the view that there are several urgencies for the formation of three new provinces in Papua, namely: alternatives to accelerate services to the community in the area of each prospective province, development can be more focused with a closer span of control; efforts to create effective and efficient government; strengthening the existence and role of indigenous and cultural territories as social capital; pay attention to the area of each prospective province compared to the level of service has not been optimal so that there are still gaps and inequalities in development; and the existence of the New Autonomous Region to answer development challenges and the level of community welfare.

To resolve the Papuan conflict through non-penal policies can only be done in the field with complete cooperation which requires the collaboration of all elements of the nation between the Papuan people both with the government, regional governments, and of course also from the DPR and DPD RI, and all

stakeholders. Resolving the Papua conflict through non-penal policies can also help accelerate development in the land of Papua and as one of the means and infrastructure for media solving social problems in Papua.

Another form of policy that can be taken in conflict resolution in Papua in the form of Non-Penal, namely through conflict resolution for the land of Papua is an effort to create peaceful conditions by finding the main source of conflict, generating good faith, mobilizing all available peace capacities and taking all opportunities to realize peace through the application of the best mechanism. Professionally, conflict resolution has been applied in various fields such as law, business, organizations, including government, where manifestations can act as arbitration, mediator, facilitator, ombudsman and counselor. Conflict resolution will also bring all parties involved to:

- a. Accept differences in mindset, have self-awareness and are sensitive to differences that exist in society.
- b. Consider alternative perspectives from various different views.
- c. Apply conflict analysis models, resolution mechanisms and processes that can be accounted for.
- d. Gain an understanding of the actual conditions and complexity of the issues and actors involved.

Work towards achieving constructive results through collaborative processes.

- f. Hold on to academic values as a basis for understanding the parties, and apply an approach that is acceptable to all parties in conflict resolution.

On the road to conflict resolution in the land of Papua, the Indonesian Government inherited two conflicts with the issue of separation that was already acute and long, namely Aceh and Papua. In comparison, the settlement of Aceh was a long and winding road. The Cessation of Hostilities Agreement (CoHA) negotiated in 2002 with the assistance of the Geneva-based Henry Dunant Centre for Humanitarian Dialogue did not produce the expected results. Only after the 2004 tsunami and earthquake disaster, the government of President Susilo Bambang Yudhoyono with the Free Aceh Movement (GAM) held peace talks in Helsinki.

The culmination of the peace talks was the signing of a peace agreement in the form of a memorandum of understanding in 2005 which eventually became the basis for conflict resolution and the creation of peace in Aceh. The success achieved in handling Aceh is clear evidence that Indonesia has adequate capacity to resolve the conflict. The more tangible the success harvested in Aceh will become, the stronger the confidence in the existing capacity and good will to pay attention to then pave the way for peace in Papua. Still regarding goodwill, it must be a unanimous decision that the Indonesian government will resolve the Papua conflict on the basis of sincere and sincere intentions by boldly taking all forms of risks for improvement.

There is no better way for the government than to show the public that the government has a unanimous intention to reform and put forward democratic ways of dealing with the nation's problems, by showing its right will to dismantle and at the same time resolve the real roots of the conflict. If this can be put forward, it will be in line with public demands that are now waiting for the government's true intention to improve and at the same time reward clean officials and upright and fair laws for the Papuan people.

With regard to opportunity, the race is that the opportunity is now in sight and very open for the government to carry out self-cleansing. The total reform that the republic has been carrying out for almost two decades, became the foundation and gave the government full opportunity to improve. The path that former Vice President Jusuf Kalla has pioneered should be the basis for the current government to move forward and pave the way for the Papua problem. Then by paying attention to the powerlessness of the community, the intention to create economic growth that benefits all people and then reform the military, police and judicial institutions, will be a golden opportunity for the government to enter and fix problems in Papua.

More promisingly, the popular Joko Widodo government in Papua, winning 70% of the popular vote in the presidential election, has a closeness shown through its visits. Then the maturation of democratization is a real opportunity to prove that the Papuan conflict can be resolved in democratic and accountable ways, then how commitments are built by all parties so that the will towards Papuan peace can be put forward. Regarding the capacity towards resolution, this text reminds that the Indonesian government has proven its capacity in resolving the Aceh conflict, thus showing that the capacity to resolve the Papua conflict also exists.

When referring to several previous studies on the future of the Papuan conflict and paying close attention to the intentions, capacities and opportunities that exist, it seems that the conclusion to the door to the peace process in Papua will be very wide open. Simon Patrice Morin, for example, asserted that as a first step the government must demonstrate political will and humility that is willing to admit past mistakes and work with confidence and kindness to pay for any losses. Dialogue as a Conflict Resolution Mechanism in Tanah Papua from the point of view of conflict resolution, dialogue is not a concept that must be understood as something rigid, but can be a dynamic concept and can accommodate the level of need when applied as a mechanism towards conflict resolution.

Dialogue as a medium or a way to present parties inclusively in order to understand each other and discuss various issues comprehensively in the context of realizing peace in Papua, is actually not something foreign even though it appears with a variety of terms selected. "Constructive Communication" for example

was once a discourse during the era of President Susilo Bambang Yudhoyono's administration, then from the Forum of Papua Peaceful Academics (FAPD) with the term discourse, namely "Consensus Building" (building consensus). If this term is associated with the issue of Papua, the point is how to produce an agreement on the issue in the land of Papua that is agreed and accepted jointly by all parties.

In the current era of government, although there is no term or concept that will be used as a mechanism in responding to the Papuan problem, it is clearly implied in Nawacita that the problems currently experienced by our brothers in Papua must get a solution. Because only by solving the Papua problem will the government be able to prove the priority of the nine agendas in Nawacita

To hack the way to conflict resolution in the land of Papua, the methods taken should be through dignified means. Of the various mechanisms available, dialogue is in harmony with the spirit in Nawacita. Then dialogue will also reflect a mechanism that is in accordance with the soul of the nation because it always prioritizes the element of peace, and in time the parties involved in the conflict will arrive at an understanding where peace will be an outcome accepted by all parties. .

On the other hand, dialogue is very appropriate as an option because it prioritizes sincerity and without coercion, therefore the decision-making process to be taken is really in the hands of the parties involved, then dialogue will also place the parties involved in an equal and equal level. It should be underlined here that equality and equality here are meant in the order of openness conveying what is of interest and has nothing to do with position. There are two essences of dialogue: conversation and the path to connect. This is a communication process in which participants can say and hear what they have never said and heard before, those involved can also draw and even change their words. The main approach to dialogue is to focus on listening, learning, and increasing mutual understanding.

Dialogue should be distinguished from other forms of communication such as mediation, negotiation, discussion, and debate. In discussions, for example, the parties involved will persuade each other about the truth of a view. All parties will justify and defend their assumptions and convince others that their views are the most correct. In discussions, conflicting parties will have a tendency to defend each other and be reactive. Dialogue, on the other hand, is more about learning and informing rather than persuading. It is a conversation brought to life by the search for understanding, not approval or solution. In other words, dialogue does not lead to determining who loses and who wins.

It should be underlined that dialogue does not have a definite goal or a predetermined agenda, the emphasis of dialogue is not on resolving disputes, but rather on improving the way for parties with differences and disagreements to relate to each other. Broadly speaking, dialogue aims to explore with mutual respect, and generate new conversations where important issues can come to the fore freely. Thus, with conditions where the parties involved in the conflict will be very difficult to be able to arrive at agreement between one another, then through dialogue will arrive at an understanding of the views that each has

The main key to why dialogue is chosen is because it will bring each party to the true existence of human beings, humans are equipped with two eyes, two ears and one mouth as a provision for their social life. This indicates that we should see more, listen and speak less. It is time for the central government, the Papuan people and all interested parties to sit together to sincerely pay attention, listen with empathy to the core of the problem so that it can be understood together. Through dialogue, the main task of the government and Papuan struggle groups is how to provide information. This is answered through dialogue where all parties can listen to what has never been heard and thought of before. Then the parties involved can also convey something that has never been said before. Thus there will be a new consciousness, which will increasingly find common understanding. Freedom in sharing information is guaranteed because in dialogue it is ensured that the parties involved are in full consciousness in conditions without pressure and without coercion so that everything to be conveyed is purely derived from the sincerity of their conscience.

When we reflect on the journey of the Papua conflict, actually the initiative to rally the way for peace in the land of Papua is not new. Since the collapse of the New Order regime in 1998 and the start of the Reform Regime, various initiatives aimed at resolving conflicts in Papua have been pursued. There has been no satisfactory result as per the objectives of the existing initiative. in relation to the issue of Papua is caused solely because what is happening is not actually a real dialogue. The text notes that if dialogue is conducted consistently with a real format, the weaknesses of peace initiatives such as those initiated during previous administrations will not occur. The establishment of Foreri (Irian People's Reconciliation Forum) to convey the aspirations of the Papuan people, and carried out a dialogue with the central government in February 1999 to realize a meeting between 100 Papuan leaders and President Habibie<sup>38</sup>. Then in the era of Gus Dur's government with its principle of pluralism gave birth to the formation of the Presidium of the Papua Council (PDP) with Theys Eluay as chairman<sup>39</sup>.

However, the PDP was unable to manage the momentum of trust, which happened that the PDP instead declared Papuan independence which ultimately could not be accepted at all by the Jakarta government. The initiative also occurred during the Megawati administration with the issuance of Special Autonomy Law 21/2001 as an alternative settlement by military means and which would later become a conciliation approach for the

president. When SBY and Jusuf Kalla came to power, hopes of a peaceful settlement in the land of Papua regained wind soon, focused on the consistent implementation of Special Autonomy (OTSUS), as a just, comprehensive and accountable solution. At the beginning of his administration several positive steps with regard to the implementation of OTSUS were achieved including the establishment of the Papuan People's Council (MRP), there was a decentralization of power since 2004 in which the government developed policy areas except foreign relations, defense and security, fiscal and financial policies, as well as religious and legal affairs. But in practice, the values and spirit of OTSUS have changed with all considerations. After two decades running, for most people in Papua and observers, OTSUS is considered to have not reaped maximum success. From the explanation above, there is indeed communication between the government and Papuan representatives, but it is very clear that what is actually happening is not what kind of dialogue is rationalized in this text. All that happens is what in this form of communication is referred to as discussion. The current government is very likely to realize a peaceful dialogue for Papua. Joko Widodo's government is very popular in Papua, winning an electoral majority there, coupled with a statement made in late 2015 that the president was ready for dialogue. Then the increasingly mature democratic climate is also the capital for raising peaceful dialogue for Papua. Challenges in dialogue as a way to resolve the Papua conflict will always exist and must be faced by the government, because the Papua conflict is indeed much more complex than what the government faced in Aceh for example. To anticipate obstacles in initiating dialogue, it is necessary to pay attention to several things where the success of a dialogue can be urged. In this regard, Chris Mitchel proposes three points that can be used as a basis for assessment for the success of the dialogue designed: the impact on the people involved, the output of which is particularly about ideas, proposals, practical steps, and the long-term impact on the conflict as a whole. . Regarding the first, it is very important to realize changes in both the attitudes and behavior of actors involved in the conflict in Papua. Ideally, there is a change from previously conflicted attitudes and behaviors to what is called cooperative attitudes and behaviors. With regard to output, the important point is the existence of thoughts, offers, and concrete steps that will be coordinated in the goals achieved. The history of conflict resolution through dialogue in internal conflicts has a unique record. Until the Cold War, dialogue as a way to resolve internal conflicts was not as successful as it was in resolving international conflicts. However, the fact of internal conflict, especially after the Cold War, shows that in addition to the trend of conflict taking a more internal form, there has also been a tremendous increase, where the resolution of internal conflicts through dialogue has increased. Currently, dialogue as a conflict resolution mechanism is implemented in Nepal, Burma, Tunisia, Egypt, Yemen, Lebanon, Morocco and Jordan, then gradually showing improvement in Libya, Basque peoples, and Syria.

In accordance with its objectives, dialogue will improve relations between the central government and the people in the land of Papua. Because the dialogue will involve all interested parties in order to achieve understanding between one another. In the conflict resolution approach there is a view that conflicts occur due to a breakdown in communication. The hypothesis is: "in the Papua conflict, communication between parties must be cut off". Indeed, the parties actually communicate, but whatever form of communication occurs is not actual communication but forms of attack both verbally and attitudes can even be in the form of violence. Therefore, with the application of dialogue, the hope is very open that communication that was previously interrupted will be reconnected. A new atmosphere that will lead to understanding for the creation of peace in the land of Papua.

Analysis of Papua Conflict Resolution can also be done in the perspective of contemporary counterinsurgency strategies with Dynamic Trust Model. According to Soerjono Soekanto, conflict in society is caused by four factors. The four factors are differences between cultures, differences between individuals, differences in interests, and rapid social change. The diction of the word difference is actually the focus of the potential for conflict, where differences in the way of view of an object are determined by the perception believed by each individual. Perception itself comes from the English absorption of perception which also comes from the Latin perceptio, from percipere which means to receive or take. Furthermore, the definition of perception according to Walgito is a process that is preceded by the sensing process, which is the process of receiving stimuli by individuals through sensory devices or also called sensory processes. But the process does not just stop, but the stimulus is continued and the next process is a process of perception. Therefore, the process of perception cannot be separated from the process of sensing what they have seen and felt for so long so that in the end it forms a perception.

In the context of conflict resolution, the issue of trust between conflict parties becomes a critical point of conflict resolution efforts. The importance of building trust in the conflict resolution process is not without cause, because trust or trust according to Gambeta is a feeling based on probability associated with his own beliefs about

behavior and abilities of the personwhom he trusts . If associated with the concept of perception described earlier, trust in other words is influenced by perceptions formed from the process of sensing, the

experience of seeing, witnessing and feeling for so long or related to a person's experiential factor towards the object he believes.

Dary Landau then introduced The Dynamic of Trust Model approach model which places the trust factor or trust issue as the main key in conflict management. Trust in this approach is complex and dynamic, and therefore does not always apply equally in all situations, depending on risk considerations and judgments of the intentions of others behind an action. The diagnosis of the root of conflict in the dynamic trust model focuses on two main problems, namely risk calculation, and root cause analysis and determination of who is guilty or assignment of blame

Broadly speaking, the Dynamic Trust Model is built on psychological attribution theory which states that when a negative event arises and it threatens or injures us, we have a tendency to assign blame to someone else or something beyond our control. The attribution factor is nothing but perception and not a reflection of reality, where perception is influenced by two important factors, namely information or data owned, and preconceptions such as beliefs, values, past experiences, stereotypes, and assumptions of a person towards others.

Then to understand how conflict resolution works based on the conflict diagnosis, the Dynamic Trust Model first divides trust into two categories, namely interpersonal trust and procedural trust. Interpersonal trust is the encouragement to feel comfortable trusting others with previously considered risks, and focuses on judging the character, integrity and values of others. Another characteristic of interpersonal trust is that it is based on overall trust, departing from the same background of values and goals, and more because of the factor of already knowing each other between actors. Procedural trust refers to the impulse to put trust in the structure or resolution process that is built. The characteristic of procedural trust is built from the assumption of actors who believe that humans are generally selfish creatures so a system is needed to ensure that the trust given is not undermined. Procedural trust builds on the credibility of third-party oversight mechanisms, and can be undermined by inconsistencies in the actors' actions on agreements.

Procedural trust is a powerful tool used for conflict resolution processes, especially in extreme conflicts where the level of trust between conflicting actors is almost non-existent. According to the Dynamic Trust Model, situational attribution has good interpersonal trust, although at least procedural trust is needed. Intrinsic nature attribution has weak interpersonal trust and therefore requires more rigid procedural trust. Whereas in the case of intentional attribution there is almost no interpersonal trust among the actors involved, therefore rigid and exclusive procedural trust is absolutely necessary.

## CONCLUSION

Based on the presentation that has been submitted, the author can embed several conclusions, including: That regarding the rationale for the resolution of the Papua conflict refers to criminal policies that produce 2 (two) sources of settlement forms, it is known that criminal policies can be taken by Penal (Criminal Punishment) or by Non-Penal means (Prevention by avoiding criminal sanctions), then each of these methods can be used for synergy the conflict settlement that occurred in Papua, in this case, it is known that in the settlement of this conflict the government must also prioritize the principle of Equality Before The Law which makes each or all Papuans equal individuals in the eyes of the law and have the same rights to every protection and primary rights in state life, in terms of penal settlement, the government can put forward a solution by making an enforcement of sanctions in Papua firmly, purposefully and measurably which of course by prioritizing human values and applicable law, the government can make a new policy that can specifically regulate the eradication of separatist movements in Papua by certainly creating a stigma and labeling these groups as Terrorists, in its implementation it is also necessary to mentally engineer Papuan officials and bureaucrats who have high integrity and are loyal to the state The Republic of Indonesia continues to foster a sense of nationalism and prioritizes common interests above personal interests so that all new plans and regulations that will be or will be made will run smoothly in line with what is desired both from the side of the Papuan people themselves and from the government. On the other hand, non-penal law enforcement also needs to be done by providing prevention, in this case concrete actions that can be taken by continuously instilling nationalism values and paying attention to the welfare of the population and people of Papua by opening all access doors that can facilitate people's lives so that there is no longer a gap that occurs in the Papua region which is different from other regions in Indonesia which is related to the method It is also that with equal equality, the Papuan people can feel a form of justice and regain trust in the Indonesian government which is loyal to Pancasila and has a nationalist spirit and the same fate.

When the New Order regime fell in May 1998, it was an opportunity for democratization under civilian leadership in Indonesia and in Papua. But unfortunately. After more than five years the reform era was running. The comprehensive resolution of the Papua conflict has not brought any bright spots. Until the end of 2003, the resolution of the Papuan conflict was at a serious impasse. The path to dialogue, negotiation, reconciliation, and a more democratic common political practice remains a dream in broad daylight that took place on the ground after the new order political battles still rely on violence. Every case of violence whether committed by

the TNI, police, Papua Task Force, OPM, migrants, or other community groups has narrowed the space for dialogue both horizontally and vertically. The loss of life in the rejection of the pemekaran policy in Papua is clear evidence that violence is still very dominant in the post-New Order Papua conflict. The policy of expanding Papua province, which was delayed during the Habibie era, now continued by the Megawati Government, has changed the map of social conflicts from vertical conflicts to vertical and horizontal conflicts. In addition to the increasing elements of conflict actors, the demands that are the source of conflict are becoming increasingly varied from demands for independence, special autonomy, equal welfare. the division of provinces to the maintenance of territorial unity and identity of the Papuan nation. Therefore, the conflict map in Papua is becoming increasingly complex, even though the main problem of the complex of the Papua conflict after the New Order is the inconsistency of the Central Government's actions in seeking conflict resolution in Papua. The regional autonomy policy initiated during the Abdulrahman Wahid era and implemented by the Megawati Government in the early days has shown positive results. This fact is shown by the decline in the escalation of the Free Papua movement since the implementation of Law No. 21 of 2001. For Indonesia itself, the special autonomy policy in Papua has broad support from within the country. The special autonomy policy is believed to be a way out to defend Papua and Aceh within the framework of the Unitary State of the Republic of Indonesia. The same support from the special autonomy policy is also provided from the international community. The inconsistency of the central government's actions is clearly shown by the re-emergence of the division of Papua into a provincial league through Presidential Instruction No. 1 Year 2003. In legal science, Presidential Instruction No. I of 2003 is a product of legal defects because it conflicts with the new Indonesian constitution, especially recognition of autonomous regions and more lingical laws and regulations. namely Law No. 21 of 2001 concerning special autonomy for Papua province. In addition, sociologically-politically. The pemekaran policy should not be implemented because it has met with widespread resistance from all elements of Papuan society except local elites involved in the Papuan pemekaran scenario. In fact, the implementation of regional autonomy policies and strong commitment from the government to bring perpetrators of human rights violations in Papua to justice can be used as tools to accommodate the interests of actors directly involved in the Papuan conflict. This idea can actually be used as a resolution of the post-New Order Papuan conflict.

In line with the understanding of criminal policy itself which is a rational and organized effort of a community to overcome crime, in this case the method used is in accordance with the criminal policy method in the form of implementing Penal and Non-Penal legal means in resolving conflicts in the Papua region.

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