

Juridical Review of the Designation of Armed Criminal Groups as Terrorists and Their Impact on National Integration in Papua

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ABSTRACT

The Papua Province is highly vulnerable to national integration conflicts due to its historically unique path of incorporation into the Unitary State of the Republic of Indonesia (NKRI), differing from other regions. One of the major current threats is the activity of separatist armed groups known as Armed Criminal Groups (KKB). This study aims to analyse the impact of KKB on national integration in Papua through a normative juridical approach, examining relevant laws and legal doctrines such as Law No. 5 of 2018 on the Eradication of Terrorism Crimes. The analysis reveals that KKB activities have seriously disrupted national security and unity, while also damaging the country's international reputation. The designation of KKB as a terrorist organisation is considered appropriate as it meets the legal criteria for terrorism. The study concludes that resolving the conflict in Papua cannot rely solely on military action but requires a comprehensive strategy that includes law enforcement, socio-cultural approaches, and diplomacy. It is recommended that the government enhance the effectiveness of Special Autonomy implementation, strengthen state presence in remote areas, and involve local leaders in national dialogue and reconciliation processes.

Keywords: *Integration; Independent Papua Organisation; Papua.*

INTRODUCTION

Indonesia's national integration is a process that seeks to create unity among the diverse ethnicities, cultures, religions and languages that exist in Indonesia. Since independence in 1945, Indonesia has faced the challenge of integrating its more than 17,000 islands of rich diversity.

Indonesia's national integration is based on the principles of Pancasila as the fundamental state ideology, with five precepts that include Belief in One God, Fair and Civilised Humanity, Indonesian Unity, Democracy Led by Wisdom in Consultation/Representation, and Social Justice for All Indonesian People. Pancasila is the foundation for achieving strong national integration.

Efforts to achieve Indonesia's national integration involve various aspects, including education, political policies, governance, and equitable economic development across all regions. Education plays an important role in building mutual understanding, respecting differences, and nurturing the spirit of nationhood among the younger generation. In addition, political policies that are inclusive and respectful of minority rights are also necessary to achieve harmonious national integration. Governance based on the principle of regional autonomy enables the development of local potential while maintaining national unity.¹

Papua province is one of the regions of the NKRI that is most vulnerable to national integration issues. In the history of Papua's integration into Indonesia, it was different from other regions in Indonesia that could be liberated from colonialists within five years of the proclamation of 17 August 1945. The condition of national integration in Papua is now being threatened by a group of people who want independence for the province of Papua. This group is an armed criminal group who think Papua should be separated from Indonesia.

In addition, there are social, political and economic issues that can worsen Indonesia's national unity. This study should identify various phenomena and problems that affect national integration in Indonesia. This is done in order to find the right solutions to overcome these problems and strengthen national integration as a whole.²

Indonesian society and government still lack an understanding of national integration as an immutable concept that is still relevant in the Republic of Indonesia and still relevant in the twenty-first century. There is no clear understanding of how to strengthen national integration in the face of increasingly complex challenges in the future. This shows that there are still different views and issues among people in Indonesia that can affect the unity and integrity of the nation.³

RESEARCH METHOD

The research method used is normative, namely library legal research conducted by examining library materials or secondary data. This research is conducted to obtain materials related to the subject matter such as theories, concepts, legal principles and legal regulations. The scope of normative legal research. This writing is based on the rules of law and legal doctrine by analysing

¹ Firdaus Agitara De Gani, Muammar Yury, and Gargarin Sembiring, "Mengenal Identitas Dan Integrasi Nasional Indonesia" *Jurnal Indigenous Knowledge*, N1, no. 2 (2023): 166–178.

² Ester Yambeyapdi, "Papua: Sejarah Integrasi Yang Diingat Dan Ingatan Kolektif," *Indonesian Historical Studies* 2, no. 2 (2019): 89–95.

³ Gunawan Santoso et al., "Kajian Integrasi Nasional Dalam NKRI Tidak Dapat Diubah Dan Sumpah Pemuda Indonesia Abad 21 Jurnal," *Jurnal Pendidikan Transformatif (Jupetra)* 02, no. 01 (2023): 270–283.

primary legal materials, including Law Number 5/2018 on the Eradication of the Crime of Terrorism and the provisions of Article 104 - Article 129 of the Criminal Code on Treason. In addition to primary legal materials, secondary legal materials used in this research are books and journals that contain rebels, treason and terrorists. The approach method used in this research is a *statutory approach* (*statute approach*) conceptual *approach* (*conceptual approach*) and case approach (*case approach*) which is used together to further examine based on legislation, doctrine and conceptual views in criminal law as well as cases related to KKB / KSB / OPM and terrorists in Papua. The legal material is obtained through literature study and then analysed with deductive method from general matters to specific matters, in this case the determination of terrorist status against KKB / KSB / OPM in armed conflict in Papua.⁴

DISCUSSION RESULTS

The Origins Of The Conflict In Papua

Papua province is the most extensive island in Indonesia. It is in the easternmost part of the country. The culture of the indigenous people in the inland areas of Papua is still largely indigenous and difficult to escape. The ease of transport and communication has changed the culture of the indigenous people in the coastal areas, although not completely. Outside influences or changes are usually more immediate in coastal communities. Certain tribal groups, especially in inland areas such as Jayawijaya, Merauke, Yapen Waropen and Paniai, still express their indigenous cultures and are difficult to influence by foreign cultures.⁵

Tirtosudarmo states that Papuans have two types of nationalism: Papuan nationalism and NKRI nationalism. It also shows that Papuans feel as Papuans rather than Indonesians, and that their culture is considered separate from the national (Indonesian) culture. So, some Papuans want to choose their own destiny or move away from the Indonesian government. This can cause uncertainty in the community. Conversely, this situation can facilitate separatism, which will pose a threat to the community and the integrity of the Republic of Indonesia, as they will spread things that make the community even more dissatisfied. This situation will allow them to strengthen their presence in developing their ideology, which in turn

⁴ Renata and Soleman Nainggolan, "TINJAUAN YURIDIS PEMBERLAKUAN STATUS ORGANISASI PAPUA MERDEKA (OPM) DARI KELOMPOK KRIMINAL BERSENJATA (KKB) MENJADI TERORIS DI PAPUA" (2015).

⁵ Rostini Anwar, "Hambatan Komunikasi Antar Budaya DI Kalangan Pelajar" December 2018, *Jurnal Common* 2(2), DOI: [10.34010/common.v2i2.1190](https://doi.org/10.34010/common.v2i2.1190)

will erode the concept of nationality.⁶ To date, Papua is still considered a conflict area, with the longest violent conflict in Indonesia. LIPI research shows that the conflict in Papua is caused by fundamental differences between the conflicting parties. These differences are related to their understanding of the basis of the problem in Papua, defending or fighting over certain interests.⁷

The Papuan conflict and the formation of the Free Papua Organisation is one of the controversial topics on terrorism in Indonesia. Papua, the easternmost state, became part of the Unitary State of the Republic of Indonesia on 19 November 1969 through a UN resolution. This legally recognised Papua as part of Indonesia. In the same year, Law No. 12 of 1969 on the Establishment of West Irian Autonomous Region and Autonomous Regencies in West Irian Province transformed Papua into a legal autonomous region of Indonesia.⁸

The Free Papua Organisation, which wants to secede from the Unitary State of the Republic of Indonesia, has launched a deadly movement to fight for its aspirations. The government responded by implementing initiatives such as Papua's special autonomy with a larger budget, but unfortunately did not reach the wider community. This led to a massive uprising by the Free Papua Organisation, which took several Europeans from a research group hostage. The two hostages were killed and the Free Papua Organisation was deemed a criminal organisation due to its activities, hence the term Armed Criminal Group.

Causes Of The Emergence Of The Independent Papua Organization

On 17 August 1945, Indonesia became an independent country. With the proclamation of independence, the Indonesian National Revolution began diplomatic and armed resistance against Dutch troops and pro-Dutch civilians. Indonesia also claimed all Dutch East Indies territories in Indonesia, including the western island of Papua. However, the Netherlands rejected this claim as they considered the territory to still be one of the provinces of the Kingdom of the Netherlands. The Netherlands and Indonesia then discussed the status of West Papua at the Round Table Conference in 1949, but failed to reach a final agreement. However, a year later, the two sides reached an agreement to discuss the issue again. The status of

⁶ Ani Widyani Soetjipto and Muhammad Iqbal Yunazwardi, "Papuan Nationalism Within The Framework of Indonesian Nationalism," *Jurnal Global & Strategis* 15, no. 1 (2021): 25.

⁷ Yoseph Yapi Taum, "Kekerasan Dan Konflik Di Papua: Akar Masalah Dan Strategi Mengatasinya," *Jurnal Penelitian* 19, no. 1 (2015): 1-13, <https://ejournal.usd.ac.id/index.php/JP/article/view/980/0>.

⁸ Renata and Nainggolan, "1 2 3 4."

West Papua was again discussed at the UN Forum in December 1950. The UN has determined that West Papua has rights.⁹

President Soekarno established the Tri Komando Rakyat (Trikorra) in Yogyakarta on 19 December 1961 to oppose decolonisation and Dutch attempts to establish the State of West Papua. In Indonesia's attempt to take over Papua, Trikorra conducted a limited military offensive against the Dutch in West Papua. In contrast, President Soekarno began to draw closer to communist countries, especially the Soviet Union, to upgrade his military equipment. Soekarno's theory made the Netherlands and US President John F. Kennedy fear that Indonesia could become the largest communist state in Southeast Asia if Indonesia and the Soviet Union were not committed. Out of fear, the Dutch decided to report the Papuan issue to the United Nations.

However, the referendum resulted in many protests. The "free choice" vote conducted by the United Nations involved over 1000 tribal chiefs chosen as a form of local "consultation", an estimated 800,000 people, rather than a one-person, one-vote voting system. The problem of political representation mentioned above relates to methods that do not involve Papuans in decision-making processes about their lives. This has led to historical disillusionment stemming from differing opinions on Papua's integration into Indonesia.¹⁰

It is unclear whether West Papuans wanted to enter Indonesia in 1969. The result of the referendum was the decision to make West Papua part of Indonesia. However, some West Papuans felt that the decision did not represent all their wishes. West Papuans who disagreed with the outcome of the referendum changed it from an "act of free choice" to an "act of no choice". This was done because they felt forced to use military force to join Indonesia.¹¹

According to Aulia Widadio and Nazarudin Latief (2019), as a result of the West Papuans' dissatisfaction with the outcome of the conflict, a military-political movement known as the Free Papua Organisation (OPM) was formed. In Resolution No.1752 (XVII) of 21 September 1962, the UN General Assembly recorded this agreement. On 1 October 1962, the Dutch government handed over power to the UN interim executive authority, UNTEA. On 1 May 1963, UNTEA was handed over to

⁹ Delvia Ananda Kaisupy and Skolastika Genapang Maing, "PROSES NEGOSIASI KONFLIK PAPUA: DIALOG JAKARTA-PAPUA" *Jurnal Ilmu Sosial dan Humaniora*, P-ISSN: 2303-2898 | E-ISSN: 2549-6662, 10, No. 1 (2021): 82-98. Doi: <http://dx.doi.org/10.23887/jish-undiksha.v10i1.27056>

¹⁰ Ibid.

¹¹ Amalia Assyifa Rahman, Ichsan Malik, Djayeng Tirto, ANALISIS MANAJEMEN KONFLIK MELALUI KONFLIK ORGANISASI PAPUA MERDEKA (OPM) DI INDONESIA, "NUSANTARA: Jurnal Ilmu Pengetahuan Sosial", e-ISSN: 2550-0813 | p-ISSN: 2541-657X | Vol 10 No 2 Tahun 2023 Hal. : 803-812, <http://jurnal.um-tapsel.ac.id/index.php/nusantara/index>

Indonesia. With Resolution No.2504 (XXIV) of 19 November 1969, which recorded the results of the Act of Free Choice, Indonesia's sovereignty over West Papua became increasingly legitimate. In fact, the Dutch colonial government had been developing and developing Papua since the early 1950s. At that time, the Dutch accelerated economic development and administration in West Irian. They also established a parliament, the New Guinea Council (Nieuw Guinea Raad), on 5 April 1961. In addition, the Dutch allowed pro-Dutch figures to form a parliament.¹²

After PEPERA, Papuans who wanted independence from Indonesia did not seem to realise that they were a nation that had been colonised since foreign forces entered West Papua. This has become increasingly relevant as Papuans have come to understand their own national identity - that they are a nation distinct from all nations associated with Indonesia. As a result, Papuans who want to become an independent state develop a national identity as distinct from Indonesia (Djafar, 2012). The Free Papua Organisation (Organisasi Papua Merdeka, OPM), founded in 1963 and formally established in Ayamaru in 1965, has increasingly become a force in Papua by carrying out rebellions.¹³

History shows that the Free Papua Organisation (OPM) first emerged in Irian Jaya. The organisation consists of two main factions: one founded by Aser Demotekay in Jayapura in 1963 and a second that decided to cooperate with the Unitary State of the Republic of Indonesia (NKRI). The OPM was established in 1970. Aser Demotekay was the original leader of the organisation.

The Government of the Republic of Indonesia refers to pro-West Papua organisations or factions in Irian Jaya and abroad as the Free Papua Movement (OPM). In Manokwari, the term OPM first appeared in 1964. Later, during the 1965 Manokwari gun rebellion and various forms of rebellion in the Irian Jaya district, the term became increasingly recognised. The emergence of the term OPM stems from the agreement of NKRI government officials to refer to the organisation as OPM.¹⁴

Four main factors causing conflict in Papua have been identified by the Indonesian Institute of Sciences. They include human rights violations, discrimination against Papuans, the Indonesian government's non-compliance with the contents of the New York Agreement regarding the integration of Papua into

¹² Liando Azam Prasajo, "Penetapan Organisasi Papua Merdeka (OPM) Sebagai Organisasi Terorisme Dan Implikasinya Dalam Penegakan Hukum" (2022).

¹³ Tolib Effendi and Ananda Chrisna Dewi Panjaitan, "Konsekuensi Penetapan Status Kelompok Kriminal Bersenjata (Kkb) Dalam Konflik Papua Sebagai Gerakan Teroris Menurut Hukum Pidana," *Rechtidee* 16, no. 2 (2021): 223-245.

¹⁴ Aprilia Budi Jansent Armandany, et al., "Pemberontakan OPM-KKB dalam Perspektif Etika Keutamaan Alasdair Calmers MacIntyre", *Jurnal Filsafat Indonesia*, Vol 6 No 3 Tahun 2023, ISSN: E-ISSN 2620-7982, P-ISSN: 2620-7990: 435-444. DOI: <https://doi.org/10.23887/jfi.v6i3.46930>, <https://ejournal.undiksha.ac.id/index.php/JFI/article/view/46930/27353>

Indonesia through the 1969 Act of Free Choice referendum, and the failure to build social infrastructure such as courts and hospitals.¹⁵

Labeling OPM (Organisasi Papua Merdeka) As Terrorists

The government is taking firmer action against the worsening situation and widespread conflict caused by the actions of a pro-independence group in Papua known as the KKB. In an official statement by Coordinating Minister for Political, Legal and Security Affairs Mahfud MD during a press conference in Jakarta, Thursday 29 April 2021, the government designated KKB organisations and members as terrorist groups.¹⁶

This terrorist status label allows for handling and actions in accordance with Law Number 15 Year 2003 on the Stipulation of Government Regulation in Lieu of Law Number 1 Year 2002 on the Eradication of the Criminal Act of Terrorism into Law, as well as Law Number 5 Year 2018 on the Amendment to Law Number 15 Year 2003.¹⁷

According to terrorism laws, many of the crimes that occur in Indonesia are linked to it. It all started with the Bali Bombing I Incident, which occurred on Saturday night, 12 October 2002. Near midnight, two bombs exploded simultaneously in front of the Sari Club on Legian Street, Kuta, Bali, and in front of Paddy's Pub. Ten minutes later, another explosion occurred in Renon, near the US Consulate office in Bali. This attack occurred approximately one year after the terrorist attack on the twin towers of the World Trade Center in New York, USA, on 11 September 2001.

The Bali Bombing I attack was the worst terrorism attack ever in Indonesia. The President at that time also signed Government Regulation in Lieu of Law Number 1 of 2002 on the Eradication of the Crime of Terrorism and Government Regulation in Lieu of Law Number 2 of 2002 on the Enforcement of Perppu Number 1 of 2002 on the Eradication of the Crime of Terrorism. Presidential Instruction No. 4 of 2002, which the President signed four days later, authorised the Coordinating Minister for Political, Legal and Human Rights to develop a national policy strategy to combat terrorism.¹⁸

¹⁵ Boy Anugerah, "Papua: Mengurai Konflik Dan Merumuskan Solusi," *Jurnal Kajian LEMHANNAS RI* 40, no. 23 (2019): 51–65.

¹⁶ Tahar Rachman, "Tinjauan Hukum Penetapan Kelompok Kriminal Bersenjata Papua Sebagai Teroris Dalam Perspektif Hukum Pidana Nasional," *Angewandte Chemie International Edition*, 6(11), 951–952. 7, no. 1 (2018): 10–27.

¹⁷ Ibid.

¹⁸ Ibid.

KKB Action In Papua

The most recent case involving KKB members occurred on 16 August 2023. Three civilians, one foreigner and two indigenous Papuans, travelled from Batas Batu to Kenyam City in Nduga Regency, Papua Mountains. Unfortunately, they did not reach their destination during the night. On the 78th Anniversary of the Republic of Indonesia, on 17 August 2023, Indonesian National Army-Polri personnel received reports that the three civilians had not arrived in Kenyam City since Wednesday. In response to the report, personnel conducted a sweep to locate the three civilians. Furthermore, information about the shooting at the Yosoma Complex was received by joint personnel from the Indonesian National Army-Polri. The joint forces immediately headed to the scene and engaged in a quick response.¹⁹

The crime of terrorism that occurred in Indonesia is a serious crime that threatens security, security, sovereignty, ideology, values, humanity, and various aspects of the life of the community, nation, and state. This crime is organised, spread throughout the world, and committed with a specific purpose. The deployment and strengthening of the Indonesian National Army is part of the effort to combat terrorism in Papua. The Indonesian National Army functions as a means of state defence and protects the country from military and armed threats. The Indonesian National Army is tasked with maintaining territorial integrity, sovereignty, state safety, and restoring disturbed state security.

As a group that is an enemy of the state, terrorism should not be exaggerated. BNPT is a non-ministerial agency tasked with handling criminal acts of terrorism. Its goal is to improve policies, strategies, and programmes that prioritise the prevention aspect since its establishment. In conducting counter-terrorism efforts, BNPT has specific strategies to achieve its prevention goals, which become the main focus in making policies and strategies.²⁰

Terrorism prevention strategy is defined as a series of actions and activities conducted to prevent terrorism itself. According to Pollat (2018), terrorism prevention policies and strategies are intended to detect and prevent various forms of terrorism

¹⁹ Irwan Triadi, et al., "Analisis Pelanggaran Hak Asasi Manusia Yang Terjadi Dalam Kelompok Kriminal Bersenjata Papua Melibatkan Anggota Tentara Nasional Indonesia Angkatan Darat 2023, *Madani : Jurnal Ilmiah Multidisiplin*, Vol. 1 No. 11, 2023, E-ISSN: 2986-6340, DOI: <https://doi.org/10.5281/zenodo.10251618>, <https://jurnal.penerbitdaarulhuda.my.id/index.php/MAJIM/article/view/1171/1237>

²⁰ Bellynda Shafira Aryeno et al., "Peran Badan Nasional Penanggulangan Terorisme (BNPT) Dalam Upaya Penanggulangan Kelompok Kriminal Bersenjata (KKB) Sebagai Kejahatan Terorisme (Studi Di Badan Nasional Penanggulangan Terorisme)", *Bhirawa Law Journal*, Vol. 3, No. 1 (2022): 74–81. DOI: <https://doi.org/10.26905/blj.v3i1.7983>,

in Indonesia. There are two approaches used by BNPT to combat armed criminal groups as a crime of terrorism in Papua *soft approach* and hard approach.²¹

The first is the *soft approach*, in which BNPT has deradicalisation, counter-radicalisation and national preparedness programmes. Deradicalisation, in general terms, means returning a radical understanding to a moderate one. Deradicalisation is understood as a way to drastically change the ideology of terrorists. Deradicalisation aims to change someone who initially has a radical understanding to become no longer radical.

Second is the *hard approach*, this approach is a legal approach or law enforcement. Indonesia in relation to the hard approach, has issued Law Number 15 of 2003 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of the Criminal Acts of Terrorism which was later amended by Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of the Criminal Acts of Terrorism or commonly referred to as the Terrorism Law.

BNPT has a commitment to be able to embrace the Papuan people again, even the perpetrators who have returned to the lap of the Republic of Indonesia to later be fostered into better citizens. Through a humanist approach and promoting dialogue with elements of Papuan society, BNPT has hopes that this conflict can later be resolved, even to the root of the problem.

CONCLUSION

The problems in Papua are very complex because they consist of various aspects. Therefore, its resolution requires synergy between the central government, local governments, and the Papuan people. The government can appoint native Papuan diplomats to speak about Papua at international forums in order to further strengthen Papua's position in Indonesia. Then there is a need for assistance, guidance and supervision to local governments in managing and Otsus so that regional development can be more focused and targeted. The government also needs to resolve allegations of human rights violations through the legal process and also resolve them in accordance with Papuan customs. Finally, the government must make its presence felt in the interior of Papua, especially the security forces. This increases people's sense of security against disturbances from armed terrorist groups.

The enforcement of the status of the Free Papua Organisation from Armed Criminal Group to terrorist according to Law No. 5/2018 on the Eradication of Terrorism in Indonesia is appropriate and appropriate, because the group has

²¹ Ibid.

fulfilled the elements referred to in the law to be categorised or included in the list of terrorist organisations.

The legal consequences of enforcing the status of the Free Papua Organisation from an Armed Criminal Group to a terrorist group will make law enforcement more comprehensive, making it easier for the government, especially law enforcers, in this case the counter-terrorism team to eradicate the group in accordance with Law Number 5 of 2018 concerning Terrorism Eradication.

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