

DIMINISHED AUTONOMY AND THE RISK OF NEW FLASHPOINTS IN PAPUA

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I. INTRODUCTION

In 2014, President Joko Widodo promised a fresh approach to addressing the conflict in Papua. He acknowledged that Papuans need more than schools and roads: they need to be heard. But instead of listening to critics' calls for a review of past mistakes, his administration continues to respond to rapidly escalating violence and deepening political grievances in Papua with a musty repertoire of top-down development initiatives. So far, none of it has worked. The Free Papua Movement (Organisasi Papua Merdeka, OPM) has grown stronger, racial tensions are flaring, street protests against the central government are mounting and Papua and Papua Barat remain the poorest of Indonesia's provinces.

The long-planned revision of the Special Autonomy (Otsus) Law offered a chance to reset the deteriorating relationship between Jakarta and Papua. Both sides have long acknowledged that in its current form, special autonomy has delivered large amounts of poorly managed cash but failed to improve the lives of ordinary Papuans. However, the diagnosis of the problem and the solution sought by each side has been completely different.

The Jokowi government, like all governments before it, insisted that higher income and better infrastructure would make the demands for independence go away. Blaming corruption and mismanagement by Papuan elites for slow economic progress, the government sought to recentralize power by supervising spending and diffusing opposition to its own priorities in Papua.

Papuan activists have long contended that development alone cannot address what are fundamentally political grievances. This time around, there were two distinct views on the future of Otsus in Papua. One camp, led by the Papuan Peoples Council (Majelis Rakyat Papua, MRP) called for an exhaustive evaluation of the Otsus law through public consultations. A rejectionist camp, represented by the West Papua National Committee (Komite Nasional Papua Barat, KNPB), organized a mass petition to discard the special autonomy law in its entirety and demanded a referendum on independence.

The new Otsus Law, passed in July 2021, adopts the government's proposal for recentralization and curtails Papua's autonomy in three ways. First, it undermines the authority of provincial governors by recognizing local governments (*kabupaten/kota*) as direct recipients of Otsus funds and empowers the central government to carve out new provinces and districts in Papua without the approval of the MRP or the provincial governments. Second, it allows the central government to supervise and control the allocation and disbursement of Otsus funds, a power previously reserved for the provincial government. Third, it removes the provision for institutional representation of indigenous Papuans through local political parties and replaces it with a quota for them in local legislatures along with preferential access to government-funded programmes.

The unilateral process through which the new law was drafted triggered widespread protests across Papua. The MRP, which by the terms of the 2001 law must be consulted on any revisions, was largely shut out of deliberations. Provincial officials were also sidelined. But instead of presenting the government with concrete alternatives, most Papuan leaders focused on demanding a seat at the table in Jakarta and lamenting their exclusion from the process.

Tensions were still running high in December 2021. The MRP has challenged both the process and the law's substance in the Constitutional Court, where the case is still pending. The governor of Papua, who has had a tempestuous relationship with Jakarta, condemned provisions of the law and sparred with Jokowi's ministers over the use of unused Otsus funds.

The Jokowi government is pushing ahead with the implementation of the new law, including its most contentious provision regarding the further carving up of Papua into new administrative units. The creation of Papua Selatan as a third province has long been on the government's agenda. Officials insist that this is necessary for improving governance. Governor Enembe has

persistently blocked the move, as it would significantly diminish his power. But now that the governors' consent is no longer required, an expedited process will likely complete the split in 2022.

Whether or not the new law achieves the government's stated objective of increasing economic growth in Papua remains to be seen. It is also unclear whether development, if it happens, benefits Papuans or non-Papuans. But steamrolling major cuts to Papua's autonomy risks creating new flashpoints for violent mobilization. Unless Jokowi initiates a policy reset to bring Papuans on board with the government's priorities, instead of accelerating development, the new law may end up accelerating conflict.

II. ESCALATING VIOLENCE PROMPTS STAGED 'DIALOGUE'

The original 2001 Otsus Law, jointly drafted by teams in Jakarta and Papua, offered significant autonomy concessions to dampen Papuan demands for self-determination.¹ Specifically, it recognized political rights of indigenous Papuans; stipulated the establishment of a truth and reconciliation commission and human rights courts; delegated authority to provincial governments in all matters except defence, foreign policy, religion, monetary policy and the judiciary; and allocated special autonomy funding to accelerate development.

That funding was due to run out in November 2021. Its renewal took on added urgency after anti-racism protests and communal riots swept across Papua in August 2019. The unrest was triggered by an incident in Surabaya, East Java, where a group of Papuan students refused to raise the Indonesian flag to celebrate Independence Day on 17 August. Local authorities, including the regional army commander and police, used paramilitary groups to terrorize the students and ultimately stormed the dormitory to arrest them. Videos of the commander hurling racial slurs toward Papuan students inside the dormitory went viral.²

Following the demonstrations, clashes broke out between migrants and indigenous Papuans in Jayapura, Deiyai, Wamena, Fak-Fak, and Manokwari. In Jayapura city, mobs burned down several government buildings and shops owned by migrants.³ The worst violence was recorded in Wamena where an anti-migrant riot resulted in 60 deaths and more than 15,000 people (mostly non-Papuan migrants) had to be airlifted to safety.⁴

The violence that gripped the province exposed the failure of Otsus in addressing entrenched racism and discrimination against Papuans. It also showed Jakarta's tenuous grip on security in the most heavily militarized part of the country. Deployment of TNI and police troops in Papua has increased steadily in response to escalating attacks from the OPM's armed wing, the West Papua National Liberation Army (Tentara Pembebasan Nasional-Papua Barat, TPN-PB).⁵ Following the latter's "Declaration of War" in January 2018, its attacks on Indonesian security forces are more frequent, deadlier, and more widespread in regions that had rarely seen any rebel activity in the past.

The rapidly deteriorating security situation raised questions about the utility of pouring a staggering USD 9.5 billion in Otsus funds into Papua over the past two decades. In Jakarta, this led

1 The 2001 Otsus Law initially only recognized Papua Province. In 2008, the law was amended to extend this recognition to the newly created province of Papua Barat.

2 "A Racial Justice Campaign Brought New Attention to Indonesia's Poorest Region. Will It Translate to Support for Independence?" *time.com*, 15 December 2020.

3 Although there were testimonies that a lot of protesters were killed during the Jayapura riot, there was no fatalities reported by any media or human rights group.

4 A joint media investigation team from Jakarta Post, Tirta.id and Jubi revealed that the government counting of casualties in Wamena was grossly underreported and biased toward migrant population. The media team found that many Papuan victims refused to go to hospital because they were afraid of police and military guarding the hospital. See "Special Report: Wamena Investigation: What The Government Is Not Telling Us", *The Jakarta Post*, 26 November 2019.

5 "Free Papua Movement' Intensifies Amid Escalating Violence", *nytimes.com*, 27 April 2021.

to renewed demands for dealing with the corruption and ineffectiveness of Papuan elites, who had failed to deliver adequate public services. Papuans laid the blame on Jakarta's transactional view of autonomy that sought to purchase peace with cash. They called for implementation of autonomy provisions in the 2001 law to improve human rights and political representation.

Amid clamouring for reform, the Jokowi administration began holding a series of highly publicized 'consultations' about the future of Papua but with hand-picked leaders from Papua and Papua Barat, guaranteed not to express criticism or dissent. The most prominent meeting was held in September 2019, in which 61 civic, religious and tribal leaders from Papua were invited to Presidential Palace in Jakarta. Few were considered legitimate representatives of Papuan concerns. The guest list was heavily vetted by the National Intelligence Chief, Budi Gunawan, who was in attendance.⁶ Also present were the Foreign Minister, the Cabinet Secretary and the Coordinating Minister for Politics, Law and Security. Papuan officials and MRP members were not invited.

Gunawan appointed Abisai Rollo, the former head of Jokowi's presidential campaign in Jayapura, to lead the group and deliver nine demands to Jokowi. Unlike the 1999 meeting held by President BJ Habibie, in which 100 Papuan leaders, invited for dialogue, presented him with a statement of support for independence, Rollo's demands were predictably inoffensive. They included requests to build a presidential palace in Papua, expedited implementation of the Palapa Ring – a telecommunications project designed to provide Papua with high-speed Internet – and division of Papua into five provinces. Jokowi responded by going through the list of demands during the meeting, agreeing spontaneously to some and promising to evaluate others.⁷

Even invited guests noted the futility of these staged proceedings. Saiful Islam Al Payage, the head of Papua's Islamic Scholars Council (Majelis Ulama Indonesia, MUI) acknowledged that the nationalist figures invited to attend the meeting did not represent the leadership in Papua: "If you want to resolve the problem, you should invite the separatists. Invite them, talk to them about their demands in a comprehensive discussion."⁸

The Governor of Papua, Lukas Enembe dismissed the event as a public relations stunt meant for foreign diplomats in Jakarta.⁹ The leader of MRP-Papua also criticised Jokowi's staff for failing to grasp the severity of the situation in Papua: "What we need now is for the President to sit and talk with the governors, MRP, provincial parliaments, district heads and mayors [in Papua]."¹⁰

Jokowi's Chief of Staff, Moeldoko, responded to critics by announcing an imminent meeting between Jokowi and Papuan officials, which in the end never took place.¹¹ He went further by claiming that the government was even prepared to meet with separatist leaders, including Benny Wenda, the Oxford-based independence leader. Jokowi confirmed this possibility, but the idea went nowhere after Wiranto ruled out such a meeting as being tantamount to recognition of the group's cause.¹²

Papua remained high on Jokowi's agenda in the weeks that followed. But rather than engaging with critics to seek solutions, he surrounded himself with a friendlier audience. In October 2019, he hosted another delegation from Papua at the palace: a group of 30 primary school children. During the event, he spoke with journalists about the need to evaluate and correct the Otsus

6 "Wiranto Pastikan 61 Tokoh Papua Wakili Masyarakat", antaranews.com, 13 September 2019. The then Coordinating Minister for Politics, Law and Security, Wiranto, confirmed that the invitees were "filtered" but insisted that they were community leaders.

7 Sekretariat Presiden, "Presiden Jokowi Menerima para Tokoh Papua, Istana Negara, 10 September 2019, <https://www.youtube.com/watch?v=BwMlpVkvTgo>.

8 "Kontroversi 61 Tokoh Papua Bentuk BIN yang Dialog dengan Jokowi," tirta.id, 18 September 2019.

9 "Lukas Enembe Ragukan Kapasitas 61 tokoh Papua yang Bertemu Jokowi," tempo.co, 15 September 2019.

10 "Kontroversi 61 Tokoh Papua Bentuk BIN yang Dialog dengan Jokowi", op.cit.

11 "Moeldoko ke Benny Wenda: Maunya Apa, Ayo Kita Bertemu," cnnindonesia.com, 25 September 2019.

12 "Untuk Ketemu ULMWP, Wiranto Beda Pendapat dengan Jokowi dan Moeldoko," suarapapua.com, 2 October 2019.

law to build Papua's human resource potential.¹³ Later that month, the president went on a tour of Papua and Papua Barat, where he inaugurated several infrastructure projects and held his signature informal meetings with the public (*blusukan*). Again, he did not meet with Papuan officials to discuss revision of the Otsus law, but announced that he was waiting for their inputs to start the process.¹⁴

III. A UNILATERAL PROCESS

In March 2020, Jokowi finally instructed his cabinet to conduct a “total evaluation” of the Otsus law and asked his ministers to find “a new spirit, a new paradigm, a new system, a new design.”¹⁵ The gulf between the central government and Papuans deepened as each side began conducting its own assessment.

For the central government, the main problem with the existing law was lack of control over use of Otsus funds, which it saw as being squandered by corrupt Papuan officials. Coordinating Minister for Politics, Law and Security Mahfud MD, pointed out local governments' failure to improve welfare of indigenous Papuans, despite receiving fifteen times more in development funds than other parts of the country. The solution, he claimed, was to reduce their role in the process: “Papua's problems would be fixed if the government were to just hand out the cash directly to the public and didn't use the local government.”¹⁶ The Ministries of Finance and Home Affairs were appointed as lead agencies for drafting the government's version of a revised law.

The head of the People's Consultative Assembly (Majelis Perwakilan Rakyat, MPR), Bambang Soesatyo, proposed two mechanisms for accelerating development in the region: formulation of a ‘grand design’ by the National Planning Agency and simplification of procedures for creating new provinces and other administrative units.¹⁷

Within Papua, opinions on revising the Otsus law were split between two camps. A reformist faction, made up of provincial government and MRP members from the two provinces, favoured a total overhaul of the law but opposed the central government's narrow focus on imposing fiscal discipline in Papua. They contended that more than mismanagement of funds, Jakarta's selective enforcement of only four out of the 24 provisions for autonomy stipulated in the law were to blame for its failure.¹⁸ The solution, in their view, was to develop a comprehensive plan for addressing long-standing grievances about the unchecked influx of economic migrants, protection of indigenous lands, accountability for human rights abuses by Indonesian security forces and reservation of elected local executive positions for indigenous Papuans. They also argued that Jakarta's arrogation of authority to lead the revision process violated Article 77 of the original 2001 law. The law stipulated that proposals for its revision had to be initiated by the people of Papua through the MRP or through the provincial legislatures to the DPR or

13 “Jokowi Akan Evaluasi Otonomi Khusus Papua,” *liputan6.com*, 12 October 2019.

14 “Presiden Jokowi Tunggu Masukan Pemerintah Papua Soal Otsus,” *kabarpapua.co*, 29 October 2019.

15 “Rapat Terbatas mengenai Dana Otonomi Khusus Papua, 11 Maret 2020, di Kantor Presiden, Provinsi DKI Jakarta,” *setkab.go.id*, 11 March 2020.

16 “Dana Otonomi Khusus akan Berakhir, Bagaimana Masa Depan Papua?,” *viva.co.id*, 10 March 2020.

17 “Rapat MPR RI & Bapenas Bahas Grand Design Pembangunan yang Rekonsilatif di Papua,” *b-oneindonesia.co.id*, 22 September 2020. Soesatyo, a Golkar politician, also tasked a group of parliamentarians from Papua and West Papua, known as ‘MPR (People's Consultative Assembly) for Papua’, to serve as mediators between the government and relevant stakeholders in Papua. In September 2020, the group held a meeting with MRP (Papuan Peoples Council) members from the two provinces and promised to facilitate a consultation between the central government and representatives from MRP and provincial governments. Like all previous efforts to hold such a meeting, this one also never materialized. See also “Terima Aspirasi MRP dan MRPB, MPR for Papua akan Gelar Pertemuan Akbar,” *poskota.co.id*, 4 September 2020.

18 “MRP Gugat Revisi UU Otsus,” *republika.id*, 22 June 2021. While MRP's criticism is directed against the central government and the DPR, it is also important to note that DPR-P also did not meet its obligations to pass implementing regulations.

the central government. Excluded from the process underway in Jakarta, both the MRP and provincial legislatures announced plans for holding their own public consultations.

A second faction, led by the KNPB, the largest non-armed pro-independence organization in Papua, campaigned for complete rejection of the Otsus law. KNPB leader Victor Yeimo described the new law as a tool to exploit Papua's resources and subjugate its people. He contended, as all pro-independence activists do, that the only way to resolve the conflict was to give Papuans the right of self-determination and hold a referendum on independence.¹⁹ Pro-independence groups had rejected autonomy when it was first formulated in 2001. In 2005, thousands staged a sit-in outside the provincial legislature to protest its implementation.²⁰ In 2021, KNPB began circulating the so-called Papuan People's Petition (Petisi Rakyat Papua PRP) to reject Otsus and claimed to have broad popular support for its cause.²¹

Security agencies responded to these developments by suppressing critics. In November 2020, Papua's provincial police chief warned the MRP, which was planning consultations on Otsus in five *kabupaten*, against engaging in 'separatist' activities that could threaten national security.²² As a result, the heads of five kabupaten in the Central Highlands denied permission for a consultation in Dogiyai.²³

The DPR-P strongly condemned police efforts to block these consultations on the grounds of Covid-19 protocols. They called the move discriminatory, noting that just a few days before the proposed event in Dogiyai, huge crowds in Jakarta were allowed to receive the returning Islamist leader Rizieq Shihab at the airport.²⁴

On 16 November 2021, police arrested 54 participants and organizers from the MRP consultation in Merauke. All were released three days later.²⁵ In the weeks that followed the local police arrested hundreds of supporters of KNPB's anti-Otsus petition as they held peaceful protests in towns across Papua.²⁶ In May 2021, the police arrested Victor Yeimo on unsubstantiated accusations of having organized the 2019 riots. As of late December 2021, he remained in police custody awaiting trial.

High-ranking officials in Jakarta also launched a campaign to discredit voices of dissent in Papua. Mahfud MD quoted results from a dubious survey conducted by BIN, claiming that only 8 per cent of Papuans were opposed to the Otsus law while 92 per cent were in favour. He also declared that those opposing the government's plans were affiliated with the "separatist" movement.²⁷ The deputy chief of BIN also claimed that his agency had detected efforts by separatist groups to use the Otsus law as an opportunity to push for a referendum on independence. He alleged, without presenting evidence, that armed groups had infiltrated the MRP's consultations and KNPB demonstrations to destabilize Papua and conceal past corruption of Otsus funds.²⁸

In December 2020, Jokowi started the formal process to revise the law. There was no consultation with provincial officials or the MRP.²⁹ The main change sought by the government at this stage

19 "Victor Yeimo: Mau Evaluasi atau Revisi Otsus, Rakyat Papua Tra Pusing," *suarapapua.com*, 14 March 2020.

20 "Protest Greets Council Inauguration," *The Jakarta Post*, 1 November 2005.

21 "714 Ribu Orang dan 112 Organisasi Diklaim Tolak Otsus Papua," *cnnindonesia.com*, 16 June 2021.

22 "Kapolda Papua Terbitkan Maklumat, Larang MRP Rencanakan Makar," *cnnindonesia.com*, 14 November 2020.

23 The five kabupaten were Nabire, Dogiyai, Deiyai, Paniai and Intan Jaya, See "Banyak pihak kecewa, Asosiasi Bupati Meepago tolak RDP," *jubi.co.id*, 18 November 2020.

24 Rizieq was later arrested, however, for violating Covid protocols. "DPRP: RDP Otsu situ hak MRP, bukan urusan Kapolda Papua dan Kepala daerah," *jubi.co.id*, 15 November 2020.

25 "Kurang Bukti Kasus Makar, Polri Lepas 54 Peserta Rapat MRP," *cnnindonesia.com*, 20 November 2020.

26 "Represi Polisi terhadap Demontran Tolak Otsus dan Desak Referendum," *tirto.id*, 26 September 2020.

27 "Mahfud MD: Survei BIN, 82 Persen Warga Papua Setuju Otonomi Khusus," *kompas.com*, 27 May 2021.

28 "BIN Saran Revisi UU Otsus Papua Disegerakan Sebelum PON," *republika.co.id*, 27 May 2021.

29 "Abaikan Protes, Jokowi Kirim Surpres RUU Otsus Papua ke DPR," *tirto.id*, 11 December 2020.

was to extend the duration and increase the amount of special autonomy funds.³⁰ Separately, Mahfud MD announced that the government was devising a new mechanism for regulating the funds, in a bid to reduce corruption and mismanagement by provincial officials. These new rules would be formulated later, through a government regulation (*peraturan pemerintah*).³¹

DPR Speaker Puan Maharani accepted the government's request and included revisions of the new law in the National Legislative Agenda for 2021. But she also announced that the DPR would be pushing for more comprehensive revisions to the law. In February 2020, a 27-member Parliamentary Special Committee (Pansus) was formed to draft the new law. All parties were represented. Only nine members were from Papua, one of whom, senior PDI-P politician Komaruddin Watubun, was elected to chair the committee.³²

Initial discussions focused on revision of two clauses in the 2001 Otsus law. The government proposed an increase in funds and simplification of requirements to create new administrative units, through the amendment of clauses 34 and 76 respectively, of the 2001 law. But Watubun expressed concern that a narrow focus on these two issues would not be sufficient to achieve the goal of accelerating development in Papua and called for more comprehensive revisions. The Minister of Home Affairs, Tito Karnavian, urged expediency and stated that the government was open to other revisions as long as they did not take too long.³³

The MRP and Papuan provincial governments once again condemned their exclusion from the revisions process. The Pansus responded by sending delegations to Papua and Papua Barat to consult with officials, legislators, and MRP leaders as well as individual mayors and district heads. Jokowi's ministers, however, did not engage with MRP or provincial officials at this critical stage. Instead, various agencies announced new corruption investigations, in what appeared to be an effort to silence critics.³⁴

By June 2021, it was clear that the scope of planned revisions to the law had expanded far beyond funding levels and creation of new provinces. The Pansus released a list of outstanding issues (Daftar Inventarisasi Masalah, DIM) to be negotiated with the government. The list showed that more than 20 clauses of the original law were being considered for revision. These included new criteria for allocating the Otsus funds, establishment of a supervisory body to monitor the funds; expansion of autonomy to district governments; reservation of seats for indigenous Papuans, as well as the future of the MRP and local political parties in Papua.

In an effort to halt the revisions, the MRPs from Papua and Papua Barat filed a petition in the Constitutional Court to invalidate the revised law, arguing that the central government had violated clause 77 of the 2001 Otsus by not involving MRP and provincial governments in the amendment process. Just days before the petition was filed, the MRP leaders were finally invited to meet with Mahfud MD and Tito Karnavian, where they restated their demands for a comprehensive review of the law and implementation of Article 77.³⁵

30 The General Allocation Fund (Dana Alokasi Umum, DAU) is used to fund provincial, district, and city governments across Indonesia. It is transferred by the central government to provincial and local governments as a lumpsum unconditional grant.

31 "Terima Surpres Jokowi, DPR Bahas Revisi Otsus Papua Awal 2021," *cnnindonesia.com*, 11 December 2020.

32 "Dari 27 Anggota Pansus DPR RUU Otsus, Hanya Ada 9 Wakil Papua," *cnnindonesia.com*, 26 February 2021.

33 "Perluasan Amendemen Pasal Diharap Tak Buat Revisi UU Otsus Papua Molor," *medcom.id*, 18 June 2021.

34 In February 2021, the Intelligence Bureau of the National Police (Bintelkam Polri) announced having discovered misuse of Otsus funds amounting to Rp. 1.8 trillion (USD 128 million), which it claimed was confirmed by the National Audit Agency (Badan Pemeriksa Keuangan, BPK). In May 2021, Mahfud MD announced the government's intention to expose "ten big" corruption scandals in Papua. Even the Corruption Eradication Agency (Komisi Pemberantas Korupsi, KPK), which has been consciously absent from Papua, announced its intention to investigate allegations of bribery against Papuan officials. See "KPK Mulai Dalami Kasus Korupsi Besar di Papua," *cnnindonesia.com*, 22 May 2021.

35 "Temui Mendagri, MRP dan MRPB Tegaskan UU Otsus Harus Diubah Menyeluruh," *mrp.papua.go.id*, 17 June 2021.

IV. LACK OF LEADERSHIP IN PAPUA

While Jakarta's unilateral approach to Otsus revisions was clear throughout the process, there was also a glaring lack of leadership on the issue in Papua. The MRP held its consultations but never formulated an alternative list of proposals. Provincial governments in Papua and Papua Barat, which stood to lose the most from the government's proposed revisions, provided no concrete input, in contrast to their active role in 2013 when the idea of a revision to Otsus was floated.³⁶

The Papua governor's office was in a state of disarray throughout the process, first due to the prolonged illness of incumbent Governor Enembe, then the death of the deputy governor and finally because of infighting over bureaucratic appointments. Papua's provincial legislature formed a special committee to hear ideas for revisions from academics and the general public. However, it did not propose any specific recommendations, a failure which was criticized sharply by its own members.³⁷

The provincial legislature in Papua Barat conducted a similar process of public consultations and provided early inputs to the Pansus in DPR. But given mounting mass protests against the law, most of these discussions were held out of the public view. The DPR-P Papua Barat released a fourteen-point proposal of mostly generic demands for consideration by Jakarta in late June 2021.

V. THE 2021 SPECIAL AUTONOMY LAW FOR PAPUA

On 15 July 2021, the DPR in Jakarta passed the new Law on Special Autonomy for Papua.³⁸ It extends the allocation of autonomy funds for Papua until 2041 and increases the amount of funding, as planned, from 2 per cent to 2.25 per cent of the General Allocation Fund.³⁹ It also revises eighteen clauses in the 2001 Otsus law and adds two new provisions. Collectively, these amendments constitute three fundamental changes to Papua's autonomy: undermining provincial power, greater fiscal control from Jakarta and reconfiguration of political representation for indigenous Papuans.

A. Undermining provincial governments' power

The new law drastically undercuts the authority of the provincial governments in Papua and Papua Barat. Unlike Indonesia's regional autonomy laws that devolve power to local governments (*kabupaten/kota*), the 2001 Otsus Law had empowered Papua province, extended in 2008 to Papua Barat as well, to implement Special Autonomy provisions.⁴⁰ Governors and provincial

36 When President Susilo Bambang Yudhoyono toyed with the idea of revising the Otsus Law in 2013 through what became known as Otsus Plus, governors from Papua and Papua Barat took the lead in drafting new provisions. The plan never came to pass but it nevertheless contained a practical set of recommendations to resolve several long-standing issues, including migration, protection of indigenous land and natural resource management. See: IPAC, "Otsus Plus: The Debate Over Enhanced Special Autonomy for Papua", Report No. 4, 25 November 2013 and IPAC, "Papua Update: The Latest on Otsus Plus", Report No. 7, 27 February 2014.

37 "Sejumlah Legislator Pertanyakan Kinerja Pansus Otsus DPRP dan MRP," pasificpos.com, 9 April 2021.

38 The law stated that the central government had 90 days to issue implementing regulations. By December 2021, two of these regulations had been issued: Government Regulation No. 106 Year 2021 concerning Authority, Institutions and Implementation; and Government Regulation No. 107 Year 2021 concerning Receipt, Management, Supervision and Planning of Otsus Funds.

39 These funds are allocated in addition to the revenue sharing funds from oil, gas, and mining, as well as the separate allocation for earmarked infrastructure funds, also regulated in the same law.

40 When the law was adopted, there was only one province, Papua. Papua Barat was created, amidst a storm of controversy, through a 1999 decree by then President Megawati and then by a 2003 law. The Constitutional Court in 2004 agreed that the creation of the new province was unconstitutional but said that it was a *fait accompli* and allowed it to stand. In 2008, Special Autonomy was extended to Papua Barat via Law No. 35/2008. Besides Papua and Papua Barat, provincial governments in three other provinces have special recognition of executive power, namely Aceh, Capital Region of Jakarta and the Special Region of Yogyakarta.

legislators had the authority to allocate Otsus funds, sign off on key central government policies relating to Papua, including infrastructure projects, and approve the creation of new provinces and districts.

The dominant role of the provincial government was one factor in the frequent stand-offs between Papua's Governor Enembe and Jakarta. Enembe has cited his authority under the Otsus Law to block multiple government efforts to carve out new provinces in Papua. In March 2020, he challenged Jokowi's refusal to impose a domestic travel ban to curb the spread of Covid-19 and announced his own lockdown in Papua.⁴¹ Enembe clashed with Jakarta yet again in March 2021 when he refused to recognize the appointment of a provincial secretary (sekda) by Tito Karnavian and swore in his own preferred candidate.⁴²

The new Otsus law contains three revisions that curtail the power of the provincial government. It formally recognizes kabupaten/kota as recipients and implementers of Otsus funds.⁴³ The suggestion for this amendment came from the Gerindra Party, led by Jokowi's former rival and current Defence Minister, Prabowo Subianto and was eventually accepted by the government on the grounds that it would improve social welfare in Papua instead of having funds accumulate in provincial capitals.⁴⁴

The law also gives the central government power to distribute Otsus funds directly to *kabupaten/kota*, without going through the province.⁴⁵ Provincial governments, previously authorized to make this allocation, can now only make recommendations to the central government.⁴⁶ New provisions in the law also set out a list of indicators that must be used as a basis for distribution of Otsus funds among local governments. These include overall population, population of indigenous Papuans, and level of development and construction prices.⁴⁷

This change drastically reduces the budget available to provincial governments. Previously entitled to receiving the entire allocation of Otsus funds, under the new law, provinces can only receive up to 30 per cent. The remaining 70 per cent funds are to be distributed among local governments.⁴⁸ This is expected to cut the budget for Papua province by half, from Rp. 14 trillion (USD1 billion) in 2021 to Rp. 8 trillion (USD 560 million) in 2022.⁴⁹

Finally, the law authorizes the central government and the national parliament to create new provinces and/or districts without the consent of the provincial governments or the MRP.⁵⁰ The Regional Autonomy Law, in effect throughout Indonesia, requires consent of the parent province and local governments for the creation of a province or *kabupaten/kota*.⁵¹ The central government can unilaterally create splits in border areas, for strategic reasons.⁵²

41 "Indigenous Papuans Initiate Own Lock-downs in Face of COVID-19," Mongabay.com, 6 April 2020.

42 "Ridwan jadi Plt. Sekda Papua, Lukas Enembe Ungkit Polemik Plh Gubernur," KabarPapua.co, 14 July 2021.

43 Law No. 2 Year 2021 on Special Autonomy for Papua. See clauses 1(5), 1(12) and 4(2).

44 "DPR dan Pemerintah Sepakat Bahas Usulan Perluasan Otsus Papua," antaranews.com, 5 July 2021. The Ministry of Law and Human Rights was reluctant to accept the proposed change at first, noting that the change would contradict a previous decision by the Constitutional Court that viewed Otsus implementation as the exclusive purview of the provincial government. See Constitutional Court Decision: No. 34/PUU-XIV/2016.

45 Peraturan Pemerintah No. 107 Year 2021. See Clause 33 (1-2). The specific allocation of funds to local governments is to be issued annually as part of the presidential regulation issued to enact Indonesia's National Budget.

46 Law No. 2 Year 2021 on Special Autonomy for Papua. See clauses 34 (10-12). The specific allocation of funds to local governments is to be issued annually via the Presidential Regulation regarding the National Budget. See Peraturan Pemerintah No. 107 Year 2021. See Clause 33 (1-2).

47 Law on Special Autonomy for Papua 2021. See clauses 34 (9). Given poor data availability in Papua and specifically the lack of reliable figures on indigenous Papuans, recently issued government regulations clarify that if data is not available on indicators then the allocation can be made based on whatever is available. See IPAC, "Numbers Matter: The 2020 Census and Conflict in Papua," Report No. 60, 29 October 2019.

48 Peraturan Pemerintah No. 107 Year 2021. See clause 30 (2).

49 "APBD Papua 2022 Diprediksi Turun Drastis," papuaterkini.com, 17 November 2021.

50 See Law on Special Autonomy for Papua 2021. See clauses (76/2).

51 Regional Autonomy Law No. 23 Year 2014. See clause 37.

52 Regional Autonomy Law No. 23 Year 2014. See clause 49.

But the autonomy law requires the implementation of a preparatory phase prior to the creation of any new administrative unit. This is meant to ensure that new local governments have the necessary physical and bureaucratic infrastructure to be functional. The 2021 Otsus law waives this requirement for the creation of new regions in Papua initiated by the central government.⁵³

This amendment not only curtails Papua's autonomy relative to the 2001 Otsus law, but it also leaves Papua and Papua Barat with less say in the creation of new administrative units than any other provinces in Indonesia.⁵⁴ The suggestion for this change came from the central government.⁵⁵ Most factions in the parliament agreed. Only the PAN party objected, calling the amendment a potential "castration" of Papua's special autonomy.

The debate in the Pansus was more intense with regard to the amendment for waiving the preparatory requirements.⁵⁶ Golkar initially refused the change by pointing out that lack of adequate infrastructure for new regions would prevent them from achieving their purpose of accelerating development. PDI-P settled the issue by proposing that the central government would provide initial funding for the new units in Papua.⁵⁷

B. Assertion of greater fiscal control by Jakarta

The new Otsus law reasserts Jakarta's control over planning, allocation, and disbursement of Otsus funds to accelerate development in Papua. Under the old law, provincial governments received the funds in the form of block grants to be used in accordance with their development goals. Education and health were identified as priority sectors but otherwise, governors had wide scope to determine their own programs.

Successive administrations in Jakarta and civil society activists in Papua have blamed mismanagement and corruption by Papuan officials for lack of significant improvement in development indicators, although it would be hard to argue that corruption in Jayapura was more endemic than in Jakarta.⁵⁸ These long-standing concerns about inefficiency are compounded by growing indications that sympathetic local officials are channelling Otsus funds to armed groups.⁵⁹

Although the amount of Otsus funds has increased, only 1 per cent is now available to provincial government in the form of a discretionary block grant. The remaining 1.25 per cent is a performance-based grant that earmarks 30 per cent funds for education and 20 per cent for health programs. It is to be disbursed by the central government after evaluating whether the provincial spending is in accordance with a newly stipulated planning document, the "Masterplan for Accelerating Development in Papua."⁶⁰

PDI-P, the party least supportive of the original Otsus Law in 2001, led the charge for tightening government control over Otsus spending in Papua, based on the formulation of the "Masterplan for Accelerating Development in Papua."⁶¹ It is to be a 20-year plan, with five-year workplans to be developed collaboratively between the central and provincial governments.⁶² In addition, provincial governments would have to submit annual workplans to the central government for

53 Splits recommended by the provincial governments, will still have to go through the preparatory phase.

54 Daftar Inventarisasi Masalah RUU Nomor 21 Tahun 2021. See point 125-127.

55 Daftar Inventarisasi Masalah RUU Nomor 21 Tahun 2021. See point 125-127.

56 Daftar Inventarisasi Masalah RUU Nomor 21 Tahun 2021 See point 133.

57 Peraturan Pemerintah No. 106 Year 2021. See clause 98-99. The details were deferred to the government regulations for implementing the law, which lay out the detailed procedure for funding newly administrative units.

58 "KOMPAK Minta Pejabat Tak Mampu Berantasa Korupsi, Mundur!" kabartanahpapua.com, 9 December 2021.

59 "PPATK Dalam Adanya Aliran Dana APBD dan Otsus Papua ke KKB," republika.co.id, 25 June 2021.

60 Law on Special Autonomy for Papua 2021: See clauses 34 (3(e(2))). PDI-P Fraction in the DPR proposed earmarking the funds for a spin-off of Jokowi's card-based programs: Papua Smart Card and Papua Health Card.

61 Daftar Inventarisasi Masalah RUU Nomor 21 Tahun 2021. See point 108.

62 Peraturan Pemerintah No. 107 Year 2021. See Ch. 4. PDI-P's proposed clause indicated that only the central government would make the masterplan but the final law and supporting government regulations stipulate it as a collaborative exercise.

evaluation by relevant ministries.⁶³ There is no mechanism provided in the law for resolving disagreements and disputes that are bound to arise during implementation. If Jakarta deems these proposals to be inadequate, the law simply compels provincial officials to submit revised plans.

PDI-P also proposed the establishment of a new body to supervise the use of Otsus funds in Papua.⁶⁴ The Agency for Steering Development of Special Autonomy in Papua is to be led by the vice-president to “harmonize, synchronize, evaluate and coordinate” development efforts in Papua.⁶⁵ The vice-president is to lead a five-member team: Minister for Finance, Minister of Home Affairs, Minister for Planning and Development and one representative each from Papua and Papua Barat. Both Papuan representatives are to be indigenous Papuans and not affiliated with any formal representative body such as the provincial parliament or the MRP. The role of this new body is expected to be similar to the team for accelerated development established by Jokowi in 2020, even though past attempts at forming such agencies in Papua have failed and there is little indication that any lessons have been learned.⁶⁶

Despite the government’s heavy emphasis on quelling corruption in Papua, the law does not contain any new provisions for improving transparency and accountability in the use of Otsus funds. It mostly restates the supervision mechanisms that already apply to Papua, even if they are rarely ever used.⁶⁷ The new law also notes the role of MRP and academic institutions in monitoring the use of Otsus funds and enjoins provincial governments to set up a public complaint handling system.

While the new law offers several technical solutions for improving efficiency and accountability in the use of Otsus funds, it does not address the political drivers of corruption in Papua. This is partly because the central government has used the threat of corruption investigations to seek compliance from Papuan politicians on key policy priorities and to gain their support during elections. Papuan officials have also used the threat of insurgent violence to dodge financial scrutiny from Jakarta.⁶⁸

C. Reconfiguration of political representation for indigenous Papuans

Apart from devolving fiscal autonomy, increasing political representation of indigenous Papuans was a critical part of the 2001 Otsus Law. In order to bring about “Papuanisation” of local governments, it reserved the governorship, deputy governorship, and a quarter of the seats in provincial parliaments for indigenous Papuans. It created the MRP as a cultural representative of indigenous peoples and tasked it with the responsibility of ensuring indigenous representation in national and local elections. Finally, the law recognized Papuans’ right to form local political parties.

The provision for allowing political parties in Papua was an important concession in recognition of Papua’s special status because regional parties were not allowed in other parts of Indonesia. Aceh was given the right to form local parties in the 2005 Helsinki Agreement, and that provision proved to be key to ending the conflict. But in Papua, the provision was never implemented because of competing interpretations.⁶⁹ In a 2019 decision, the Constitutional Court ruled that because the clause on parties did not specifically mention the word ‘local’,

63 Peraturan Pemerintah No. 107 Year 2021. See clause 22.

64 Daftar Inventarisasi Masalah RUU Nomor 21 Tahun 2021. See point 108.

65 Peraturan Pemerintah No. 106 Year 2021. See clause 85-87.

66 “Jokowi Tunjuk Ma’ruf Amin Pimpin Tim Percepatan Pembangunan Papua,” *kompas.com*, 8 October 2020.

67 Law on Special Autonomy for Papua 2021. See clauses 34(14) and PP 107 Year 2021. See clause 42-48. The government regulations recognize audits and monitoring and evaluation as tools for increasing accountability and specify that the DPR, the KPK and the BPK have the authority to implement these measures.

68 “Kelola Dana Triliunan Rupiah Tapi Belum Capai Sasaran, elite Papua disebut kapitalisasi isu kemerdekaan”, *BBC Indonesia*, 2 December 2021.

69 Law on Special Autonomy for Papua 2001, clause 28(1), only says “Residents of Papua may form political parties.”

formation of parties that only operated in Papua could not be inferred as part of Papua's 'special' status.⁷⁰

The new Otsus Law removes the provision for political parties in Papua altogether. This amendment came as a surprise to many observers as it was not reported as being under consideration during parliamentary deliberations. In fact, members of the Pansus had made several recommendations to clarify the provision in the original law to facilitate its implementation.

PDI-P initially proposed inserting the word 'local' in the clause about political parties to respond to the court's concerns. But later, it suggested substituting the provision for local parties with reserving a quarter of the seats for indigenous Papuans in local legislatures.⁷¹ Gerindra acknowledged the necessity of local political parties for accommodating the aspirations of the Papuan people and proposed that such parties be required to have at least 70 per cent of their members from indigenous Papuans and 30 per cent women.⁷² The Democrat Party further expanded the provision to add specific clauses on registration and recruitment of local parties in Papua. This version of the draft included a detailed list of prohibited activities for local parties, indicating concerns about them being utilized as a platform for pro-independence groups.

PDI-P's suggestion was adopted during the final phase of negotiations with the government. In a drafting meeting held on July 10, just five days before the new law was passed, the committee decided to remove the provision for political parties, citing the 2019 decision by the Constitutional Court.⁷³ The decision was based on several considerations. Having seen the success of Partai Aceh, the government was concerned that local parties in Papua would become too popular and could begin to dominate local legislatures.⁷⁴ The government also feared that in the absence of stringent regulations, local parties in Papua would proliferate quickly, burdening Jakarta with high supervision costs.

Instead, the new law explicitly applies the principle of affirmative action to improve the welfare of indigenous Papuans and increase their presence in local legislatures.⁷⁵ To this end, it adds several clauses that identify indigenous people as priority recipients for Otsus-funded programs, especially in health and education. The number of indigenous people is also identified as a factor in determining the annual allocation of Otsus funds to *kabupaten/kota*. Government regulations further enjoin local bureaucracies to fill 60 per cent of general civil servant appointments with indigenous Papuans.

While these provisions for increased indigenous access to government resources have the potential to improve the daily lives of ordinary Papuans, they do not address growing concerns about relative deprivation due to the steady influx of migrants into the region. Anger over economic domination by migrants is propelling increasingly intense communal violence across Papua, as evidenced by the 2019 riots. Concrete proposals for limiting migration into Papua were made during the 2013 draft revisions for the doomed attempt to pass Otsus Plus but these were not considered for revisions in 2021.

The law also reserves a quarter of the seats in district councils for indigenous Papuans, mirroring the system already in place for provincial parliaments.⁷⁶ The reserved seats are to be filled through appointments by selection panels, not elections. At the provincial level, the appointment process was previously managed by the governors. Under the new law, however, the formation of selection panels to fill indigenous seats in the provincial parliaments is to be

70 Putusan Mahkamah Konstitusi No. 41/PUU-XVII/2019.

71 Daftar Inventarisasi Masalah RUU Nomor 21 Tahun 2021. See point 51.

72 Daftar Inventarisasi Masalah RUU Nomor 21 Tahun 2021. See point DIM 52.

73 It also removed the MRP's role in vetting MPR candidates and no longer required national political parties competing in Papua to consult with the MRP regarding their choice of candidates.

74 IPAC interview with Papuan academic based in Jayapura, 21 December 2021.

75 Law on Special Autonomy for Papua 2021. See Preamble.

76 30 percent of the reserved seats are to be filled by women.

managed by the Ministry of Home Affairs.⁷⁷ There is a long list of requirements that must be met by indigenous candidates to be considered for reserved these seats. Members of political parties or past electoral candidates cannot be appointed.

Replacing local political parties with appointed seats is a major setback for democracy in Papua. The new law increases the presence of indigenous Papuans in local governments. But the top-down appointment process also allows the central government to ensure that only pro-Jakarta individuals are chosen to represent indigenous interests. This new provision formalises Jakarta's long-held view that Papuans lack the maturity to fully exercise their democratic rights.⁷⁸

VI. REACTIONS TO THE NEW OTSUS LAW

The passage of the law triggered widespread protests in Papua. Papuan students also organized demonstrations in major urban centres across Indonesia. The police arrested hundreds of protestors, but most were later released. Initial fears of a repeat of the 2019 unrest in Papua did not materialize, as the protests fizzled out in a few weeks. The long-planned National Sports Week that was hosted in Papua in October also passed without incident.

As expected, however, pro-independence groups condemned the new Otsus law and claimed it as further evidence of Jakarta's bad faith towards Papua. Benny Wenda described the new law as the 'second act of no choice', referring to the rigged 1969 UN referendum which resulted in Papua's annexation to Indonesia. KNPB leader Agus Kossay rejected the law as a compromise between Jakarta and self-interested Papuan elites. He reiterated the right of self-determination as the only acceptable solution to the conflict and demanded that Indonesian government stop forcing its will on the people of Papua. TPN-PB spokesman Seby Sambom also rejected the move, adding that in two decades of implementation, the Otsus law only benefited non-Papuans.⁷⁹

The MRP challenged the final version of the law in the Constitutional Court on the grounds that both the process and the substance of the new law violate constitutional rights of indigenous Papuans and that the government had excluded it from the revisions process. Its challenge also took issue with several amendments, most notably with the clause authorizing the central government to create new administrative units without consulting with MRP or the provincial government. The case is still pending but heads of four *kabupaten* (*bupati*) have already filed a request to form a new province, South Papua.⁸⁰ In the past, these attempts have been blocked by Governor Enembe but now the central government can overrule him. Vice-President Ma'ruf Amin, recently announced that the government intends to accelerate the creation of the new province.⁸¹

The response of Papuan officials is more varied. Predictably, mayors and *bupatis* welcomed the new provisions of the law recognizing local governments as recipients of Otsus funds.⁸² The governor of Papua Barat, Dominggus Mandacan, who had earlier criticized the one-sided amendments process, offered support of the affirmative action policies and representation quotas for indigenous Papuans.⁸³ He also sent a draft of recommendations for the supporting

77 Appointments to the newly created reserved seats in the local legislatures are also to be made via selection panels, but their creation and supervision is assigned to the provincial governments and the MRP.

78 This reasoning is used by the government to justify application of the 'noken' system in Papua, which replaces individual voting in elections with collective votes cast by tribal leaders. It was also cited as a consideration of reversing direct elections of local executives in Papua. The idea was abandoned after public uproar. See: "Ungkit Jakarta dan Papua, Tito Beberkan Efek Negatif Pilkada", cnnindonesia.com, 31 August 2020.

79 "Tolak Otsus Papua Jilid II, TPNPB-OPM: Kami Mau Tentukan Nasib Sendiri," suara.com, 15 July 2021.

80 "Aspirasi Pemekaran Provinsi Papua Selatan Resmi Diserahkan ke Pemprov, DPR Papua dan MRP," kompas.com, 25 November 2021.

81 "Wapres: Pemekaran Wilayah Papua akan Dipercepat," republika.co.id, 15 Dec 2021.

82 "Bupati Asmat dan Walkot Jayapura Apresiasi Otsus," republika.co.id, 19 July 2021.

83 "Pemerintah Papua Barat Sambut Baik Pengesahan UU Otsus Papua," antaranews.com, 15 July 2021.

government regulations.⁸⁴ This pragmatic approach is partly driven by recognition of the possibility that Jakarta's cuts to Papua's autonomy, and related funds, could have been much deeper.

Governor Enembe accepted the law as *fait accompli* but is now using the issue to fan public anger against Jakarta and score points with his base. He denounced the law as a "catastrophe", claiming that resources poured into Papua only serve to attract migrants.⁸⁵ In what can only be described as a political stunt, Enembe announced that he would no longer have funds to support educational scholarships and threatened to call back the students already studying abroad. The row escalated when Finance Minister Sri Mulyani responded by reminding him that Papua was holding Rp. 12 trillion (USD 700 million) in leftover Otsus funds that could be used to finance the scholarships. The new law requires the provincial governments to report and disburse unspent Otsus funds. Enembe's team has vehemently denied that this balance exists.⁸⁶

VII. CONCLUSION

President Jokowi has prided himself on visiting Papua more than any of his predecessors. He promised that he was there to listen, and the people of Papua rewarded him with their trust by electing him by a landslide, not once but twice. Instead of using this political capital for building consensus on solutions for Papua's seemingly intractable problems, he chose expediency. The result was a process that sidelined the very people it claimed to help, and a law that makes Papua's Special Autonomy 'special' only in that it does not exist anymore.

The new Otsus law may increase efficiency and accountability but at the same time, it increases friction between Papua and Jakarta and ignores long-standing Papuan demands for limiting migration, protecting human rights and more political power. Most importantly, it lacks legitimacy.

If the law is to succeed in improving Papuan welfare, its implementation must remedy these flaws. Most urgently, the implementing regulations need to formulate a speedy mechanism for settling administrative disputes that are bound to occur between Jakarta and Papua and within Papua due to different interests and varying interpretations of the law. Usually, such disputes would be resolved in administrative courts, but a speedier internal mechanism is needed to prevent bureaucratic scuffles from escalating into policy standoffs, or worse, flashpoints for violent mobilization. The risk of escalation is especially high in view of upcoming elections in 2024, in which local politicians may use such disputes to shore up electoral support from those most disaffected by the law.

Equally pressing is a reevaluation of Jakarta's security policy in Papua that has focused more on quashing political dissent on the streets while struggling to contain an increasingly aggressive insurgent force in the jungles. The government's expanded authority under the new Otsus law is unlikely to improve its legitimacy in Papua, unless it implements those provisions that guarantee security for Papuans. This means swift handling of human rights abuses by security forces and finding a more effective counterinsurgency strategy that will curb TPN's attacks against civilians.

Finally, there needs to be a thorough, independent evaluation of the law's implementation after the first year's funding is disbursed. Civil society organizations in Papua should be involved in the evaluation and the findings presented to the public.

84 "Pemprov Kirim RPP Otsus ke Pusat, DPR Papua Barat Jalan Terus," cnnindonesia.com, 14 August 2021.

85 "Gubernur Lukas Enembe: Otsus Membawa Malapetaka Untuk Orang Papua," papua.tribunnews.com, 1 December 2021.

86 "Gubernur Papua Tudung Menkeu Bikin Gaduh soal Simpanan RP12 T di BPD," cnnindonesia.com. 1 December 2021.

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