

Report Part Title: OTSUS PLUS:

Report Part Author(s): Institute for Policy Analysis of Conflict

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Report Subtitle: THE DEBATE OVER ENHANCED SPECIAL AUTONOMY FOR PAPUA

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Institute for Policy Analysis of Conflict (2013)

Stable URL: <http://www.jstor.com/stable/resrep07807.1>

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OTSUS PLUS: **THE DEBATE OVER ENHANCED SPECIAL AUTONOMY FOR PAPUA**

25 November 2013

IPAC Report No.4

The **Institute for Policy Analysis of Conflict** (IPAC) is the name adopted in 2013 by Yayasan Penanggulangan Krisis Internasional, an Indonesian foundation. Based in Jakarta, IPAC works on the principle that understanding conflict is the first step toward stopping it, and produces in-depth reports based on field research on six kinds of conflict: communal, insurgent, extremist, electoral, vigilante and land/resources. Indonesia is the main focus, with planned future expansion to Myanmar and Bangladesh. For more information email Sidney Jones, IPAC Director, at sjones@understandingconflict.org.

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I. INTRODUCTION

A weak proposal for enhanced special autonomy (*otonomi khusus plus* or *otsus plus*) for Papua, drafted in October 2013 by the Papuan provincial government, has been vastly improved by the government of Papua Barat, and now represents a detailed, workable program for improving the lives of indigenous Papuans. The question is whether it will be embraced by the Papuan public and sent on to Jakarta as a consensus draft or be pushed to the side by political considerations, local and national. If the former, it could become one of the most interesting policy initiatives on Papua in the last decade.

The original concept of *otsus plus*, developed in talks between Papuan Governor Lukas Enembe and President Yudhoyono in April 2013, was to “reconstruct” the 2001 Special Autonomy Law for Papua that was widely acknowledged to have failed. In October, a drafting team appointed by Enembe produced a draft law that focused on increasing the authority of the governor, raising provincial revenues, and giving the province a greater say in the operations of corporations operating in Papua. While a stated principle of the draft law was to ensure preferential treatment for indigenous Papuans, it offered few ideas for how to do so.

In early November, Enembe invited Papua Barat Governor Bram Atururi to Jayapura to discuss the draft, hoping that he would just sign on to it and go home. Instead, Atururi returned to Manokwari, the Papua Barat capital, and put together his own drafting team, giving it less than a week to come up with an improved version. The team included Dr. Agus Sumule, former adviser to Enembe’s predecessor and now a professor at Papua State University. The result may have been hastily produced, but in terms of its provisions on agriculture, health, education, credit and cooperatives, mining, population, human rights and much else, it is a major improvement on the original.

One example: the education section in the Jayapura draft consists of one article with several generic provisions on the right of Papuans to receive quality education. The Papua Barat draft sets a goal of ending illiteracy within five years of the law’s coming into force, makes education free and mandatory through junior high school, and pays particular attention to how to overcome the perennial shortage of qualified teachers in remote areas.

The Papua Barat draft, which was only completed on 13 November, will now go back to Enembe to see if the two drafts can be reconciled. There is almost no chance of its being debated by the national parliament, let alone passed, before President Soesilo Bambang Yudhoyono leaves office in 2014. Earlier this month, Enembe was saying that he still wanted to make a push to get the proposed bill to Jakarta, fast-track it with the president’s support, and get it approved in December, but that was before such a radically different version was prepared by Papua Barat. It also would have meant no time for any public debate on the contents. Now that the differences between the two drafts are so stark, the possibility of a consensus draft getting to Jakarta by December is even more remote, and with 2014 an election year, it effectively means postponement of parliamentary consideration to 2015.

In the meantime, various groups in both provinces are protesting the idea of *otsus plus*. One reason is that though Enembe enthusiastically adopted the idea, it is still seen in some quarters as yet another attempt by Jakarta to find a substitute for failed policies of the past without appropriate consultation with Papuans. The Jayapura draft was tightly held by the governor’s staff with little dissemination and no public discussion, at least thus far. Some academics and NGOs contrast this with the very open process that produced the 2001 law.

Others argue that the whole idea of *otsus plus* ignores the larger issue lurking in the wings, the ongoing desire of many Papuans for independence. Before yet another solution purporting to fix Papua’s ills is put forward, they say, the fundamental issue of Papua’s political status needs to be discussed.

The draft from Papua Barat could inject an additional element of politics into the process. While it is more coherent, more detailed and more useful as a roadmap for change than the original, this in itself could create resentment in Jayapura. Also, Enembe is the chair for Papua of President Yudhoyono's party, Partai Demokrat, while Governor Atururi of Papua Barat represents the Gerindra party, whose leader, former army special forces commander Prabowo Subianto, is a candidate for president. With national elections looming, the Papua Barat draft could be seen by Enembe and those around him as an effort by Gerindra to upstage the president's man in Jayapura and make Gerindra the standard-bearer for change.

It would be a major loss if some of the ideas in the Manokwari draft fell victim to petty politics.

II. THE ORIGINS OF OTSUS PLUS

By all accounts the idea of *otsus plus* emerged in discussions between Lukas Enembe and President Yudhoyono shortly after Enembe's installation as governor in April 2013. Yudhoyono, nearing the end of his final term, was reportedly interested in leaving behind a positive legacy on Papua that would involve a "re-design" of special autonomy. Enembe wanted to capitalize on his Partai Demokrat links with the president and mark his first 100 days in office with a major initiative.

On 29 April, Enembe met the president to discuss the idea, bringing with him Deputy Governor Klemen Tinal and two of his own closest political allies, Timotius Murib, head of the MRP, and Yunus Wonda, then acting head of the Papuan provincial legislature. Yudhoyono was accompanied by his Papua adviser, Velix Wanggai, and several ministers.

Enembe and his team proposed twenty points that might form the core of *otsus plus*. Among them were expansion of the governor's authority, involvement of the provincial government in the renegotiation of the Freeport mining company's contract, the re-establishment of international services at Biak's airport, clemency for political prisoners, ability to represent Indonesia in relations with the Pacific, enhanced affirmative action for indigenous Papuans in the security forces, increased grants for infrastructure, affirmation of Papua as the host for the 2020 Indonesian games, building a large statue of Christ overlooking Jayapura, ensuring housing and clean water for indigenous Papuans and establishing sports centres throughout Papua.¹ Enembe said the president agreed to them all.²

The two sides agreed that if Enembe and his team could produce a new draft law by August, the president would try to fast-track its passage through parliament. He would also announce it in the traditional state of the nation address on 16 August, the day before Indonesia's independence anniversary, and personally come to Papua to deliver the "gift" of *otsus plus*.³

The twenty points may have had support in Jakarta, but they did not prove as popular back in Papua. On 22 May, Yunus Wonda told the press that the president would announce clemency for political prisoners in his August address.⁴ Immediately, 26 pro-independence prisoners in Abepura prison, most detained on rebellion charges, announced that they would reject clemency if offered and said what was needed was not prisoners being freed, but the Papuan people being

1 Speech of Governor Lukas Enembe to the opening of the Special Working Meeting of the Papuan provincial government on 29 May 2013, as reprinted in *Cenderawasih Pos* on 30 May. The meeting was convened to produce a five-year plan for Papua.

2 IPAC interview with Lukas Enembe, Jayapura, 6 November 2013.

3 "August 2013, Presiden Beri Hadiah Bagi Papua", *Bintang Papua*, 23 May 2013.

4 "SBY Bakal Bebaskan Tapol Napol", *Cenderawasih Pos*, 23 May 2013.

freed from the Indonesian government's colonial clutches.⁵

On 29 May, Enembe announced the broad outlines of expanded autonomy in a speech to the provincial government that was reprinted in a local newspaper.⁶ Various activist groups then began announcing their rejection of it.

In June, a working draft of the *otsus plus* law emerged that was quickly found to be a copy-and-paste adaptation of the 2006 Law on the Governance of Aceh (LOGA) – so much so that it accidentally left in wording in Article 89 that broadcasting would be based on Islamic values – a provision that clearly made no sense for heavily Christian Papua.⁷

On 25 July – as it became clear that the August deadline was not going to be met – the MRP held a three-day consultation to evaluate special autonomy.⁸ Some 300 people from across the seven cultural areas of Papua attended. The conclusion was not just that autonomy had failed to improve the lives of indigenous Papuans but that their situation had actually deteriorated in the twelve years it had been in force.⁹ The meeting then produced a resolution that the 2001 law should not be amended before a dialogue had taken place between the people of Papua and the central government, mediated by a neutral third party.

The MRP's resolution took both Enembe and Jakarta by surprise and ended any prospect of a presidential visit in the immediate future.

The governor then asked the head of the local planning board, Musa'ad, and a group of academics from Cenderawasih University, to come up with a new draft. In early October they produced a far more substantive version of a "Law on the Governance of Papua" that no one could accuse of being a mere replica of the Aceh law.¹⁰ The governor, clearly hoping to get it to Jakarta as soon as possible, asked two major stakeholders to review it. The first was the MRP, which returned a revised draft on 11 November. Among its proposed changes was that not only the governor and deputy governor but all other local executives, including district heads (*bupati*), mayors (*walikota*) and their deputies as well as subdistrict and village heads, be indigenous Papuans.¹¹

The second review came from Manokwari. On 4 November Enembe had invited a delegation from Papua Barat led by Governor Bram Atururi to Jayapura to receive and sign off on the new draft. But Atururi, while giving the idea of *otsus plus* guarded endorsement, told Enembe that he needed time to review the draft carefully. He promised to have it back within a week.

On arrival in Manokwari, Atururi called a meeting of senior staff and gave them the draft to look at. The first thing they noticed was that Enembe's drafters had not used the word "Papua Barat" anywhere in the document and in the preamble, had not even mentioned Law No.35/2008 that had extended special autonomy status to Papua Barat, despite the fact that the draft pur-

5 "Tapol Papua Merdeka Tolak Rencana Pemberian Grasi", 3 June 2013, available at knpbnews.com/blog/archives/2008. While the 26 claimed to speak on behalf of all political prisoners, one of their lawyers said that many prisoners detained elsewhere, and even some of those in Abepura, wanted to be released and would in fact accept clemency if offered.

6 IPAC interview with Lukas Enembe, Jayapura, 6 November 2013.

7 "Pemerintah Bantah Jiplak Naskah Akademik UU Otsus Plus Papua," *Sinar Harapan*, 29 August 2013.

8 Members of the Papua Barat MRP had been invited but after Governor Atururi announced at the last minute that there would be a separate consultation in Manokwari, only a few attended.

9 IPAC interview with Rev. Hofni, deputy head of the MRP, Jayapura, 7 November 2013. The seven areas are Mamta/Tabi, Saireri, Domberai, Bomberai, Anim Ha/Ha Anim, La Pago, and Mee Pago.

10 "Rancangan Undang-Undang Republik Indonesia Nomor:00 tentang Pemerintahan Papua", Tim Asistensi Daerah Rancangan Undang-Undang Pemerintahan Papua, Jayapura, October 2013.

11 This proposal goes far beyond a November 2009 proposal by the MRP to limit all candidates for *bupati* and deputy *bupati* to those verified as indigenous Papuans. The decision was never implemented after it was rejected by the Ministry of Home Affairs for being discriminatory. Similar objections are likely if the current draft law is brought to Jakarta. For more on the decision and the politics surrounding it, see International Crisis Group, "Indonesia: The Deepening Impasse in Papua", Asia Briefing No. 108, 3 August 2010.

ported to cover both provinces.¹² Atururi then appointed his own drafting team to make revisions, and on 13 November, they turned in the results.¹³

The next step is for the two drafts to be consolidated. This has made consideration of the bill by the Indonesian parliament this year all but impossible. On the other hand, it opens the possibility for public debate and discussion of the substance that thus far has been absent.

III. THE 'PLUS' IN OTSUS PLUS

Both the Jayapura and Manokwari drafts constitute extensive reworkings of Law 21/2001 and both in many ways are wish lists. The Jayapura draft focuses largely on increasing the provincial government's revenues, and giving the province (and particularly the governor) greater control over natural resource concessions and operations. Enembe acknowledges that he knows he has asked for more than Jakarta would ever give, but sees the draft as an opening bargaining position.¹⁴

The Manokwari drafters have left in most of Enembe's suggestions for greater provincial revenues, believing that the central government will reject most of them. They concentrate instead on fleshing out the provisions on protecting indigenous Papuans. Even if some of their ideas also go beyond what Home Affairs (or the Constitutional Court) would likely approve, they are at least serious attempts to address recognized problems.

Neither draft makes any attempt to roll back the clock or fight lost battles by trying, for example, to reunite the two provinces under a single administration. Nevertheless, the Manokwari draft provides a detailed basis for a discussion on how to advance a progressive policy agenda on Papua within the framework of Indonesian sovereignty.

A. Demographics

One of the most fraught issues in Papua today is how to prevent indigenous Papuans from being swamped by the unending influx of migrants from other parts of Indonesia. The Jayapura draft merely calls for preferential treatment and affirmative action in various fields. The Manokwari version has a detailed program for addressing the problem on several fronts (Section 30, Population and Employment).

It starts from the principle that in-migration of non-Papuans must be restricted. There would be strict controls and monitoring at all points of entry into Papua and within *kabupaten* (the administrative level directly below a province). Anyone trying to enter without a valid national identification card, known as KTP, would be turned back. Indigenous Papuans would have special ID cards that would entitle them to special facilities; non-Papuans would be given temporary residence permits or ID cards identifying them as "seasonal workers". A thorough and accurate census would be conducted – a particular challenge for Papua where population statistics are often deliberately inflated.¹⁵ Population growth of indigenous Papuans would be encouraged, including through particular attention to maternal and child healthcare, and no official transmigration programs would be allowed into Papua until the indigenous population had reached 20 million (it is now less than 3 million). Investors would need to ensure that at least 50 per cent of employees recruited be indigenous Papuans.

12 IPAC interview, Agus Sumule, 18 November 2013.

13 "Rancangan Undang-Undang Republik Indonesia Tentang Pemerintahan Otonomi Khusus Di Tanah Papua", unofficial draft, Manokwari, November 2013.

14 IPAC interview with Lukas Enembe, 6 November 2013.

15 See IPAC Report No. 3, "Carving Up Papua: More Districts, More Trouble", 9 October 2013.

A major source of migrants has been the booming agribusiness industry, especially palm oil. The Jayapura draft has no specific provisions on plantations. The Manokwari draft (Article 82) requires that a Papuan smallholder plantation program be developed with appropriate funding and inputs. It also requires that any company investing in plantations include a Papuan smallholder program (*plasma*), reserving five ha per indigenous Papuan household in the area. Special extension services for Papuan farmers in agriculture, forestry, animal husbandry, plantations and fishing would be established, with centres at both the provincial and sub-provincial levels.

B. Land and Mining

Both drafts have sections on land (Section 22 in the Jayapura draft, Section 21 in the Manokwari draft) but whereas the former consists of a set of generic principles, beginning with “Every Indonesian citizen in Papua has the right to land in accordance with existing law”, the Manokwari draft starts with the principle that use of any land owned communally or individually by indigenous Papuans shall be through rental or contract – i.e., it is not available for sale. A land and building tax will be imposed annually on all users of customary land given away as concessions by governments in the past. The revenue would be passed on to the adat community holding customary rights over the land involved. Crucially, the provincial and *kabupaten* governments would be required to undertake a participatory land-mapping project to determine the borders of customary land (Article 116). To speed up the process, NGOs and academics with expertise in mapping could be invited to help.

In the all-important mining sector, both drafts list principles that all mining companies should abide by, such as transparency and accountability. The Manokwari draft adds three that are missing from the Jayapura draft: ensuring the prosperity of indigenous Papuans, respecting their rights and opening employment opportunities for them. It then requires the companies to prepare and train indigenous Papuan to fill available positions, including managerial ones.

The Jayapura draft focuses on giving the provincial government the authority to issue licenses and to own shares in all resource extraction companies operating in Papua (this last is aimed particularly at Freeport, the giant copper and gold mine in central Papua). The Manokwari draft focuses on getting returns to individual Papuans, saying those who own or control land on which exploration and exploitation take place are entitled to appropriate compensation, including cash payments for use of any natural resources owned by the indigenous population concerned (Article 96). Why cash rather than other kinds of payments is not clear, but the principle goes far beyond the Jayapura draft’s premise that if revenue gets to the provincial government, it will automatically get to the people. Representatives of the owners of the *tanah ulayat* (customary land, communally owned) should have the right to shares in the company concerned and to sit on the board, and the company has an obligation to set aside alternative land for agricultural purposes and provide liveable housing. Customary leaders are obliged to manage the compensation received so that the benefits will be available to future generations (Article 96.5).

C. Education and Health

As noted, one of the most detailed sections of the Manokwari draft is on education (Section 24). It starts from the principle that indigenous Papuans have a right to quality education that is free through junior high school and fully up to date in terms of knowledge and technology, with a curriculum set by the provincial governments. It then goes on to map out a plan for how to improve education in Papua, generally acknowledged to be abysmal and marked by a high rate of

teacher absenteeism.¹⁶ The provincial and *kabupaten* governments would be required to provide the widest possible opportunities to any institutions willing to help improve education: NGOs, private institutes and the business community. They would be required to provide subsidies to private educational institutes willing to work as partners with the government in this effort. Indigenous children would be required to attend school up to the age of fifteen, at no cost. Within five years of the law's coming into force, all children over the age of seven would be required to be literate, and within fifteen years, all indigenous Papuans over the age of eighteen would be required to have at least a junior high school education. Special attention and funding would be given to non-formal and adult education, and to education in remote areas. The government would provide special education both for gifted students and those with learning disabilities. It would provide for multiethnic dormitories as needed at the high school level. Businesses would be required to provide schooling for the children of all employees and ensure that school-age children from the Papuan community were gradually introduced to business operations.

As for teachers, the government would conduct regular evaluations and provide incentives and sanctions as necessary to improve teaching quality. It would give incentives to non-civil servants, college graduates and retirees to become teachers so as to help address the teacher shortage.

Similarly detailed plans are laid out for improving healthcare in remote areas, with special attention to the need for measures to prevent the further spread of HIV/AIDS, as well as to treat and support those afflicted and remove the negative stigma against them (Article 138).

D. Human Rights

On human rights, the Manokwari draft contains what is effectively a bill of civil and political rights, with additional rights spelled out for women and children. Both drafts call for a Truth and Reconciliation Commission, using the wording of the 2001 law that the aim would be “clarifying Papuan history in order to strengthen national unity within the Unitary State of the Republic of Indonesia [NKRI]”—not a promising starting point for reconciliation, but this was the compromise worked out in 2001, when the Papuan drafters had proposed the creation of a “Commission for the Rectification of History.”¹⁷

Both drafts contain provisions for an independent Human Rights Commission for Papua – not necessarily linked to the National Commission on Human Rights as the 2001 law mandates. In addition, the Manokwari draft calls for human rights courts to be set up in the capitals of both Papua and Papua Barat, with prison sentences for those convicted of human rights violations and appropriate compensation to victims. The courts would be part of the Indonesian system of human rights courts established by law in 2000.

E. Foreign Affairs

Both drafts contain a section on “limited foreign affairs authority”. The original section in the Jayapura draft was built on one of Enembe’s twenty points and was largely focused relations with the Pacific region, allowing Papua to represent Jakarta in some bilateral forums, arrange cross-border economic cooperation and stimulate development of border areas. The Manokwari draft removes any reference to the Pacific per se but gives the governors authority to develop limited bilateral relations with their “immediate neighbours”.

16 A recent assessment by UNICEF showed that 47 per cent of primary school teachers were not showing up to work. “47 Persen Guru SD di Papua Mangkir”, *Cenderawasih Pos*, 13 November 2013.

17 “Rancangan Undang-Undang Republik Indonesia Tentang Otonomi Khusus Bagi Provinsi Papua Dalam Bentuk Wilayah Berpemerintahan Sendiri”, Article 43 in 2001 draft made available electronically to IPAC.

The appearance of both drafts comes just a month before the foreign ministers of the Melanesian Spearhead Group (MSG), an alliance of Pacific countries that have been traditionally sympathetic to Papua's independence movement, are planning to visit Papua at the invitation of the Indonesian government. The invitation was a way of heading off a bid for membership at the group's June 2013 meeting of one Papuan independence group.¹⁸ The MSG decided to defer consideration of the bid until after the ministers' visit. Some in Papua suggest that the government may be looking for an excuse to postpone the visit, and may suggest that because of the heated atmosphere or ongoing discussions with regard to special autonomy, late December would not be a good time to come. In any case, the interest of the Pacific region in Papua will make officials in Jakarta nervous about expanding provincial powers in this area. The Manokwari draft also includes a provision that would allow the Governor to provide recommendations to the immigration service on allowing foreigners to enter Papua and require written justification in cases where such permission was not granted.

F. Sports

The Jayapura draft places a heavy emphasis on sports. Papua would be able to field teams directly for and host international sporting events. Government at the national, provincial and district levels would be required build the capacity of Papuan youth in sports, with the provincial government providing funds for sports facilities and professional teams out of special autonomy funds. The Manokwari draft obliges government at all levels to actively search for and develop the talents of indigenous Papuans who show promise in sports. Under the Jayapura draft, all companies operating in Papua would be required to contribute 0.5 per cent of their net income to sports in Papua; the Manokwari draft does not specify a figure but says that the government should give incentives to the business community to participate in the development of sports. These provisions reflect the passion of Papuans for sports, especially football, but also the fact that it is an area in which Papuans can more than hold their own with athletes from other parts of Indonesia and as such, a source of pride.¹⁹

G. Structure

Both drafts keep the current governmental structure largely unchanged, though they increase the number of appointed seats within the provincial legislatures to be reserved for indigenous Papuans from an additional one-fourth of the total to an additional one-third. In the twelve years since the original *otsus* was adopted, however, the Papuan provincial administration has never worked out a legal mechanism for appointments, and these "*otsus* seats" remain empty.²⁰

Both drafts keep the provision in the 2001 law that the governor and deputy governor must be indigenous Papuans; the Manokwari draft extends this to *bupati* (heads of *kabupaten*) and mayors, as well as their deputies. The MRP, as noted, wants this extended down to village heads.

18 In June 2013, the MSG, consisting of the governments of Vanuatu, Fiji, Papua New Guinea and the Solomon Islands as well as the New Caledonian political movement called Front de Libération Nationale Kanak et Socialiste (FLNKS), considered a bid from the pro-independence exile group West Papua National Coalition for Liberation (WPNCL) to become a member. WPNCL's leadership, including former OPM member Rex Rumakiek, who left Papua in 1970, is based in Vanuatu, the MSG member most outspoken in support of its accession to the group. Indonesia has observer status. See "Communiqué of the 19th MSG Leaders' Summit", 20 June 2013, available at www.msgsec.info/images/PDF/leaders%20communiqué%20-%20retreat%20final.pdf.

19 Sports are important politically in Papua in part because of the relative prowess of Papuan football players (Persipura, the Jayapura team, has led the Indonesia Super League in recent years). Across Indonesia, sports funding is also a famous source of corruption.

20 A draft *perdasus* on how the *otsus* seats would be appointed is reportedly ready for discussion by the DPRP. "Raperdasus 11 Kursi DPRP Tahap Finalisasi", *Cenderawasih Pos*, 7 November 2013.

In the past the definition of indigenous Papuan has been contested, but both drafts track the wording of the 2001 law that defines an indigenous Papuan as “anyone of Melanesian race who belongs to one of the indigenous ethnic groups of Papua or anyone not of Papuan origin who has been accepted as an indigenous Papuan in accordance with the traditions and customs of the indigenous group concerned”.

H. Revenue

The Jayapura draft’s most striking proposed changes concern the amount of money Papua would receive from the central government. Along with Aceh, Papua and Papua Barat already benefit from special allocations that other provinces do not receive. The largest of these is the special autonomy funds allocation (*dana otsus*), which in 2013 totalled Rp. 6.22 trillion for the two provinces (roughly U.S. \$541 million); in Papua province this figure represented just over half of the province’s annual revenue.²¹ The Jayapura draft would see this amount increase by 150 per cent (bringing in a further U.S. \$811 million into the combined provincial coffers).

Another area where both provinces receive increased allocations is in revenue-sharing (*dana bagi hasil*) of natural resource extraction. Provisions in the 2001 law grant an increased share of oil and gas revenues (70 per cent compared to just 16 per cent for other regions)—in reality these only benefit Papua Barat as Papua has no oil or gas income. The Jayapura draft would increase the share of all natural resource revenues to 90 per cent.²² It would also raise the provincial government’s share of income tax revenues from 20 to 50 per cent, and land and building tax revenues from 80 or 90 per cent to 100 per cent. All these provisions were kept in the Manokwari draft.

The estimated net effect of these changes when taken together, based on 2012 revenues, could mean close to an extra U.S. \$1 billion flowing into the accounts of local government—an impressive proposition, even as an opening bargaining position.

Both drafts call for local government at all levels to manage the *otsus* funds separately from other revenue sources, an important step towards better management. The 2001 law and the Jayapura draft state that these funds should be used primarily for funding health and education projects, but the Manokwari draft goes much further, setting clear spending targets: 20 per cent on education and skills training, 20 per cent for health and maternal and child nutrition, 20 per cent for poverty reduction and people’s economy, 10 per cent for social assistance, 25 per cent for village-level infrastructure and housing projects, 4.5 per cent for the MRP/MRPB and other *otsus* institutions, and only the remaining 0.5 per cent for discretionary spending.

I. Pemekaran

There is very little said in either draft about *pemekaran* – the creation of new provinces and *kabupaten* – a process that is resulting in Papua being carved up into smaller and smaller units,

21 The total allocation of *otsus* funds for Papua and Papua Barat is calculated as 2 per cent of the annual general funds allocation (*dana alokasi umum*); the two provinces split this 70:30 based on the terms of the 2008 law that extended the special autonomy regime to cover Papua Barat. Both provinces also benefit from a sizeable separate allocation of *otsus* infrastructure funds (*dana tambahan infrastruktur dalam rangka otsus*) that is determined each year in the budget without a specific formula, based on a proposal from the provincial governments. In the 2013 Papua province budget, the *otsus* funds and the *otsus* infrastructure funds together constituted 60 per cent of provincial government revenues. See Badan Pengelola Keuangan dan Aset Daerah, Provinsi Papua, “PENGALOKASIAN DANA OTSUS PAPUA TAHUN ANGGARAN 2013”, available at bpkad.papua.go.id/page/45/pengalokasian-dana-otsus-papua-tahun-anggaran-2013.htm.

22 Under Law 33/2004, 80 per cent of revenues derived from forestry, plantation, fishery and mining resources go to the originating province, 30.5 per cent of natural gas revenues and 15.5 per cent of oil revenues. Under the terms of Law 21/2001, Papua and Papua Barat receive 70 per cent of gas and oil revenues and will continue to do so for 25 years. The language in both the *otsus plus* drafts would reset this clock.

mostly along ethnic or clan lines.²³ The power given the MRP in the original autonomy law to approve any provincial divisions was undercut in 2003 by the presidential fiat that split Papua in two. At the *kabupaten* level, powers of the governor to approve the creation of new *kabupaten* is being undercut by parliamentary initiatives in Jakarta, whereby local campaigners for a new *kabupaten* can make their case directly to Commission II of the parliament, even though this is not how the process is supposed to work.

Neither the central government, which periodically announces a moratorium on further splits but never enshrines its exhortations in law, nor the governors, who are not interested in seeing their territories further eroded, seem able to stem the tide. In October 2013, the national parliament formally proposed draft legislation that would create 30 new *kabupaten* and three new provinces across Papua.²⁴ Few of these new units are likely to be approved before national elections in 2014; writing them into draft legislation may have been an easy bid for political support in advance of the polls. But many in Papua expect that most of them will eventually come into being, even if it takes several years, with the province of South Papua, with Merauke as its capital, likely to be the first off the block. Nothing in the current draft suggests alternative procedures or stricter conditions for dividing Papua.²⁵

J. Local elections and political parties

Despite Governor Enembe's support for abandoning direct elections at the district and provincial levels and returning to election by local legislatures, the Jayapura draft makes no changes to local election procedures. The Manokwari draft merely says that these elections will be the subject of future special regulations (*peraturan daerah khusus, perdasus*), which leaves the door open for establishing different procedures to those under effect in national legislation.

Both drafts have provisions on the establishment of local parties. In Aceh, the establishment of parties that represented only a provincial, not a national constituency, became the deal-maker in the 2005 Helsinki peace agreement that ended conflict between the Indonesian government and the Free Aceh Movement (Gerakan Aceh Merdeka, GAM). GAM formed a local party, Partai Aceh, which proved to be a formidable political machine and GAM's route to control of the legislative and executive branches of the provincial government, as well as many districts – a development which is not likely to make officials in Jakarta enthusiastic supporters of Papuan parties.²⁶

The original special autonomy law had a provision on local parties but effectively nullified any possibility of their establishment by a clause requiring them to be consistent with existing legislation – and existing law on political parties required representation in more than half of

23 See IPAC Report No. 3, "Carving Up Papua: More Districts, More Trouble", 9 October 2013.

24 The three new provinces are Papua Barat Daya, Papua Tengah and Papua Selatan. The twenty-one new *kabupaten* in Papua province (and the *kabupaten* out of which they are being carved) are: Gili Menawa (from Jayapura); Moyo (from Boven Digoel); Kota Merauke (from Kab. Merauke); Baliem Center (from both Tolikara and Lanny Jaya); Boboga (from Tolikara); Puncak Trikora (from Lanny Jaya); Muara Digoel and Admi Korbay (both from Mappi); Katengban (Pegunungan Bintang); Lembah Baliem and Okika (from Jayawijaya); Yapen Barat Utara and Yapen Timur (Kepualaun Yapen); Pulau Numfor (from Biak); Yalimek, Yahukimo Barat, Mambera Hulu, Yahukimo Barat Daya, Yahukimo Timur and Yahukimo Utara (all from Yahukimo); and Gondumisisare (from Waropen). The nine new *kabupaten* from Papua Barat are: Malamoy and Maybrat Sau (from Sorong); Raja Ampat Utara and Raja Ampat Selatan (from Raja Ampat); Maskona (from Teluk Bintuni); Okas (from Fak-Fak); Manokwari Barat and Kota Manokwari (from Manokwari); and Imeo (from Sorong Selatan).

25 Such provisions would probably be seen as a challenge to national law which spells out the procedures for creating new *kabupaten* and provinces across the country. If *otsus plus* is seen as a wish list, however, the governor could try to articulate the criteria or enforcement procedures that he would like to see used.

26 In a visit to Jayapura in July 2012, Minister of Home Affairs Gamawan Fauzi told the press that Aceh had local political parties because as a result of the 2005 peace agreement, there were no longer armed groups operating there. Papua still had armed movements operating, he said, and they could use local parties as a vehicle for gaining access to office. "Papua Beda Dengan Aceh", JPNN, 14 July 2012.

Indonesia's provinces. The new drafts remove that clause. The new versions also suggest that only indigenous Papuans can form local parties, though any residents of Papua can be members.

The Manokwari draft goes further to include substantial detail on what party creation would entail, and what rights and responsibilities local parties would have.

The concern in Jakarta may be not only that allowing local parties could lead to pro-independence groups trying to register but also that it could lead to more conflict – and Papua already has a high rate of violence in local elections.²⁷

IV. OPPOSITION AND RESPONSE

Opposition to *otsus plus* is coming from two main groups, but more to the idea than the substance, since few members of the public have seen either draft. One is from people who object to what they see as the closed process of drafting and the lack of a more open debate. The second is from activists who object in principle to the idea of amending a failed law, especially when it is seen as a concept concocted in Jakarta.

A. Process

Many community leaders and activists in both provinces were concerned about the closed nature of the drafting process. They compared it unfavourably to the process of drafting the original 2001 law, in which there had been a serious effort to gather input from across Papua. Then, a drafting committee composed of Papuan intellectuals had been set up in December 2000 under the rector of Cenderawasih University, the state university in Jayapura. For two weeks, it collected input from a variety of sources, including NGOs and non-violent pro-independence groups as well as local officials. The then governor, Jaap Solossa, spoke on radio and television, describing the process and inviting the public to contribute to the discussion, including by sending representatives to Jayapura to a public Study Forum where an initial draft would be discussed. In late January 2001, the drafting committee divided into four teams and travelled around Papua to collect ideas and hear views of community leaders. In early March, the legal drafting began to try and take all these views into account.²⁸

Eleven different drafts were produced by the time the two-day “Study Forum on Special Autonomy for a New Papua” was convened on 28 March, just a few weeks later. Despite protests from some that there should be no compromise on independence, forum representatives reviewed the latest draft and made suggestions for further changes. A final version was presented to the governor in mid-April. It was quickly approved by the provincial legislature and then presented to then President Abdurrahman Wahid and his then Coordinating Minister for Politics and Security, Soesilo Bambang Yudhoyono – now president. From there it went to the national parliament where a special committee was formed in June to review the draft, with the Papuan drafting team attending all sessions, and a watered down version passed in October 2001. It was signed into law on 21 November 2001.²⁹

The speed and efficiency of the process were remarkable. It helped that Papuans then were negotiating from a position of strength, with a strong non-violent pro-independence movement that convinced officials that a workable alternative to independence had to be found. The law

²⁷ See discussion of election violence in Nduga and Puncak in “Carving Up Papua: More Districts, More Trouble”, op.cit.

²⁸ For a detailed description of the process, see Agus Sumule, “Protection and Empowerment of the Rights of Indigenous People of Papua (Irian Jaya) Over Natural Resources Under Special Autonomy: From legal opportunities to the challenge of implementation”, Resource Management in Asia-Pacific, Working Paper No.36, 2002, pp.11-13, available at digitalcollections.anu.edu.au/bitstream/1885/40984/3/rmap_wp36.pdf

²⁹ Ibid.

finally produced was one that many Papuans felt they owned, even in its diluted form. The cooperative spirit thus produced was destroyed when less than two years later, in 2003, the government of Megawati Soekarnoputri divided Papua into two provinces in complete contravention of the law and undid any belief in Jakarta's good faith.

This time, however, there is no sense of ownership – or not yet, at any rate. One prominent Papuan community leader said in early November that he could not voice an opinion about the Jayapura draft because he had not seen it – and neither had any of his friends.

In Papua Barat, the drafters are convinced that it would only take three weeks to hold consultations in every part of the province. It would be longer in Papua, given the areas that have to be reached, and then there would be additional time needed to reconcile the drafts. It is not clear how these consultations would be organized or how they might mesh with civil society struggles to bring about a dialogue with Jakarta on Papua. But without public buy-in, the drafts will be largely meaningless.

B. *A Priori Rejection of a New Law*

As the Jayapura draft appeared to be nearing finalization, a number of groups mobilized to protest it. Students were among the most active protestors. On 4 November, hundreds gathered for a “long march” from Abepura, the suburb where Jayapura's main university campuses are located, to the governor's office. Organized by a coalition called the Movement of Students, Youth and People of Papua (Gerakan Mahasiswa Pemuda dan Rakyat Papua or GEMPAR), they rejected any expansion of *otsus* on the grounds that the 2001 special autonomy law had so patently failed that to suggest amending it was to insult the dignity of the Papuan people.³⁰ GEMPAR tried to organize similar protests over the next few days, but police were out in force to arrest anyone for obstructing the rights of others under a 1998 law on protests, and the demonstrations were small. Seven GEMPAR activists were arrested in front of the MRP on 7 November; sixteen more were taken into custody the next day, but most were released without charge.³¹

Some objected to the principle that any law on autonomy, given Papua's history, could be a solution to its ills. “We don't need a law, we need a referendum,” one customary leader said privately. He noted that at the same time that officials in Jakarta were professing to be concerned about Papuan welfare, they had set up a network of customary institutions called Lembaga Masyarakat Adat (LMA), based in the coordinating ministry for political, security and legal affairs, that was designed to rival and undermine the more grassroots-based Dewan Adat Papua, that officials see as pro-independence.³²

The perceived Jakarta origins of the *otsus plus* concept have also been a source of concern to some in Papua. Theo van den Broek, an adviser to many NGOs and a long-time resident of Papua, wrote a column bemoaning the tendency of some in the Papuan elite to be grateful for largesse from Jakarta rather than taking their fate into their own hands and working for change. There is something wrong, he writes, about the governor trying to get people excited just because the president promises to visit and give Papuans another “gift”. The gifts, he writes, too often are used as a way of trying to close off debate rather than seriously investigating problems and solutions.³³

A public debate on some of the strategies outlined in the Papua Barat draft could be a way of

30 “Tolak RUU Otsus Plus, BEM PTS PTN di Jayapura Akan Duduki Kantor Gubernur”, *Majalah Selangkah*, 1 November 2013.

31 “4 Mahasiswa Jadi Tersangka, 12 Dilepas”, *Bintang Papua*, 11 November 2013.

32 IPAC interview, Jayapura, 8 November 2013.

33 “Papua, korban dari pola ‘Bapak Bawa Hadiah’”, 25 June 2013, available at www.aldp-papua.com/papua-korban-dari-pola-bapak-bawa-hadiah-bbh.

collectively coming up with solutions to some of Papua's thorniest problems. But it would require many in the activist community to make a leap of faith that working within an autonomy framework was still possible.

Lukas Enembe seemed comfortable with all the criticism heaped on the Jayapura and was satisfied, before the Papua Barat draft emerged, that the Jayapura draft represented Papuan views. As of this writing, he had given no public reaction to the Papua Barat draft.

V. CONCLUSIONS

Against all odds, a controversial effort to produce a legislative quick win before the end of the Yudhoyono presidency has produced a useful document. The Papua Barat government's response to the Papuan government's proposal for enhanced special autonomy contains some of the most innovative ideas in years on how to strengthen the economic and political position of indigenous Papuans. Some may go a little too far, some may fall a little short, but overall they are practical and constructive. The challenge now is to see if anyone will buy them.

The obstacles are formidable. They include:

- A fractured local civil society that is largely distrustful of local government officials, many of whom are seen as more motivated by personal gain than by a commitment to Papuan welfare. The distrust of *otsus plus* as a concept has been reinforced by the absence of any effort on the part of the provincial administrations to solicit public opinion on the drafts.
- Deep cynicism across Papua about the interest of the central government in any reform that would strengthen the position of indigenous Papuans. Some members of the Papuan elite feel they have been repeatedly betrayed by Jakarta, so why should they put time and effort into fine-tuning a policy proposal that will likely be blocked by Jakarta anyway?
- Deep frustration among many officials in Jakarta that they can be seen to do no right and that any policy initiative runs afoul either of turf battles in Jakarta, lack of consensus among Papuans, or both. Also, wariness in Jakarta of taking any measures that might inadvertently strengthen pro-independence sentiment.
- Poor working relations between the two provincial administrations in Jayapura and Manokwari. In particular, the Papua Barat government under Bram Atururi is seen in Jayapura as having worked to undermine, rather than support, the original spirit of special autonomy, with steps such as June 2011 creation of a separate MRP for Papua Barat.
- A national parliament where political dynamics are such that it will always be difficult to muster broad support for what would be viewed as concessions to provinces that already receive so much in economic terms.

The only possibility of overcoming such hurdles is public discussion. This means that both administrations should drop the idea of trying to fast-track the bill, an effort which is likely to fail anyway. Instead, they should meet with religious, community and adat leaders after their two drafts are consolidated and work out a joint strategy and timeframe for consultation on the draft among Papuans, with an eye to getting the whole package revised and on the legislative agenda for 2015.

The process could use the model of seeking inputs from the public on the original 2001 law. It could also draw in part on experience of the Papua Peace Network (Jaringan Damai Papua, JDP). The JDP held public consultations in communities across the two provinces in

2011 to draw up indicators for what a peaceful Papua would look like. Discussion on the consolidated *otsus plus* draft would need broader geographic and political reach. If civil society has been largely left outside the drafting of *otsus plus*, so too have those officials been largely left out of JDP's work. This could be an opportunity for civil society and provincial officials to work together in pursuit of common goals.

If the road to finding consensus on a draft becomes totally blocked, then the drafters could try and salvage separate provisions of the draft, working with their respective provincial legislatures to restructure incentives for teaching in remote areas, for example, or encourage village-level mapping of customary land. Such piecemeal efforts would not have any of the clout, however, of a consensus position across both provinces to try to secure the position of indigenous Papuans in a time of rapid change.

The prospect of national elections in 2014 offers a rare opportunity for a positive change of direction. New governments want to make a mark. If public debate can give Papuans a sense of ownership in a revised draft of *otsus plus*, then perhaps the next president can play a key role in championing it. There are too many useful provisions in the Manokwari draft to reject it out of hand before there has been serious discussion on the contents.