

**SERI**

**SOCIO-POLITICAL NOTES**

**NO. 5**

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**RECENT DEVELOPMENTS  
IN PAPUA**

**SPECIAL AUTONOMY  
ITS PROCESS  
and  
FINAL CONTENTS**

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**SEKRETARIAT Keadilan & Perdamaian**

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**INTRODUCTION**

In overviewing the situation in Papua in 2001, some very striking elements appear that could be regarded as determining events for the year. The main elements are:

- ❖ the effort to articulate people's aspirations into a concept of special autonomy,
- ❖ a number of bloody incidents, culminating the murder of the chairman of the Presidium (PDP), Mr Theys Eluay,
- ❖ the efforts and failures to get previous incidents handled by the judiciary,
- ❖ the drawn-out court case related to prominent PDP members,
- ❖ the increasing deployment of security forces in the area, and
- ❖ the developments at the national level.

In this paper we will try to explore one of these main elements, ie "special autonomy". For sure it will represent a quite limited analysis, as well as a personal valuation of what has happened in the time span of a year. Any comments, including differences of view are most welcome.

## **The "autonomy issue"**

### **1. THE ORIGINAL IDEA**

It might be useful to recall that the offer of 'autonomy' had been made by the central government since the very beginning of increasing protests by the Papuan community in 1998. It was offered by the government to counter the people's demand for freedom and independence. A similar offer has been addressed to the Aceh Regency, another regency in the Indonesian Republic which is looked at as a problem-area.

The offer to the Papua Regency was

[1] **created** on the officially urged opinion in governmental circles that problems in Papua were mainly problems originating from the failure of development policy in the region,

[2] **inspired** by the – in the government's view – indisputable fact that Papua is and always will be a part of the Indonesian Republic, and

[3] **based** on the fact that autonomy would be granted anyway, as part of a nation-wide program to give more authority to the regional administration.

As the official government's valuation of the problems in Papua (mainly development-related) was not shared by leading persons in the independence movement – and by a large circle of other people as well<sup>1</sup> – the offer of 'autonomy' failed clearly to satisfy the Papuan community, and was simply looked upon as an effort to deny the real problems at hand. Moreover the government made very clear that any room for a political discussion or dialogue was out of question. In no way was it possible to discuss openly the actual political status of Papua as an integral part of the Indonesian Republic. Given this situation the concept or just the word 'autonomy' popularly became identified with "any attitude or person opposing the real

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<sup>1</sup> See, among others, "Problems in Papua", June 2000, an informative message from the Catholic Church leaders in Papua to President Wahid.

aspirations of the Papuan community”, slowly pushing people into two polarising blocs: the independence group (M-group) versus the autonomy group (O-group).

Over the period 1999-2000 the government seemed totally deaf to the protests directed at the ‘autonomy concept.’ This attitude was finally and very embarrassingly demonstrated by the DPRD (Regional House of Representatives in Papua), which – in December 2000 – simply endorsed the articulation of the autonomy concept as it has been offered by the central government. Although the DPRD officially invited some input before endorsing the suggested articulation of the concept, it never took the input seriously and made no changes at all to the formulation suggested by ‘Jakarta.’

## **2. FROM ‘AUTONOMY’ TO ‘SPECIAL AUTONOMY’**

Facing increasing pressure and protests by various circles and realising that ‘autonomy’ would be introduced anyway, the Governor, Mr Jaap Salossa, took the initiative to get the concept better articulated and more reflective of the aspirations of the Papuan community. Already the year before he had pleaded to the central government to grant Papua not just ‘autonomy’ (uniform for any province in the Indonesian Republic and introduced by 1 January 2001), but to grant ‘special autonomy’ in order to make it more responsive to the special situation of Papua. The central government gave him room for such a move, but that room failed to be used by the DPRD.

Building on his earlier effort the Governor decided to ask the regional university, UNCEN (Universitas Cenderawasih), to get involved and to develop a more appropriate concept of ‘special autonomy’. The university had to move fast as the concept had to be ready to be handed to the central government before 1 May 2001. So roughly three months were available to do the job.

## **3. ARTICULATING SPECIAL AUTONOMY: A COMMISSION AT WORK**

The governor appointed a commission to assist the UNCEN staff. A variety of organisations (including NGOs and religious institutions) were represented in the commission. The main function of the commission was to ‘throw’ suggestions at the working team and to comment on provisional results.

One of the important stages in the process was a visit to the various districts by the members of the working group, in order to explain the purpose of the work they had been asked to do, and make clear that input from the local communities was vital to that job. The results of these field visits were eye-opening for the commission because, on one hand, they experienced very close to their skin that there was increasing opposition to anything related to ‘autonomy’; and, on the other, they had a keen opportunity to feel what people were really looking for.

At the same time it should be mentioned that in a number of districts the working group hardly got a chance to dialogue with the ‘local community,’ as the meeting was just a gathering of civil servants who happened to be at hand. Although the visiting phase didn’t meet completely the expectations of the commission, it did provide a basis for understanding the main issues that the “special autonomy concept” should deal with.

The commission also searched for input from the Presidium of the Papuan Council (PDP), but this board of leaders preferred to keep strictly to their mandate given by the Papuan community – ie, to aim for independence – so they were reluctant to get involved in any discussion on autonomy.

## **4. CIRCUMSTANTIAL SOCIO-POLITICAL SETTING**

During the initial sessions of the commission’s deliberations with the supporting commission, it had been made clear that any credibility the “special autonomy” offer may have would depend heavily on very clear changes in the social-political setting in Papua as such. Attention was drawn to the fact that core leaders of the PDP were still in jail, that bloody incidents had still to be investigated, that increasing security presence and actions didn’t support the ‘good intentions by the government’, etc. Some signals of improvement were delivered: a special independent team was set up to investigate the Abepura case; the security forces refrained from very open actions; and the PDP-members were released from jail and put on house arrest.

## 5. RESPONDING TO BASIC ASPIRATIONS

Everyone involved in the process of articulating the 'special autonomy' concept became aware of the fact that it had to respond to the aspirations voiced over the last years, if it was to have a chance at being accepted by the Papuan community. The commission worked from one draft to another and ended with a concept that breathed fresh hope and perspective. Some features especially related to the struggle of the Papuan community over the last two years were found in a number of substantial paragraphs, such as:

- ❖ Respect for local socio-cultural expressions, including the freedom to fly the Papuan flag, and sing the community's 'national' anthem (Ch. II and XI)<sup>2</sup>
- ❖ An effective say in political decisions, ie in relation to migration and the deployment of security forces (Ch. IV)
- ❖ Representation of local traditional leadership in the administration (Ch. V)
- ❖ Obtaining a major share of the profit from the exploitation of natural resources (Ch. X)
- ❖ An opening to a political dialogue on the past ('rectification of history') (Ch. XII, Art. 43)
- ❖ Attention for justice to be done and human rights violations to be halted (Ch. XII)
- ❖ The request for a referendum to be held in the event that special autonomy is not implemented properly (Ch. XXIII, Art. 75)

## 6. AN OPEN FORUM FOR FINAL DISCUSSIONS

Before finalising its work the commission decided on a final input via a workshop that would gather representatives from all over Papua. Accordingly the "Forum Kajian R.U.U. Otonomi Khusus menuju Papua Baru"<sup>3</sup> was held on 28-29 March 2001. As this congress can be regarded as a major event of 2001 we will report on it at length here (as an intermezzo below). This short reflection we have written a day after the Forum took place.

### An intermezzo : the Congress on Special Autonomy

Over the last few days Jayapura has been tuned to the "special autonomy meeting," which began on Wednesday, 28 March 2001. In the preceding days, long sessions by the steering committee continued to update the discussion paper. The draft bill for Special Autonomy to be granted to Papua has been formulated; it is the 11<sup>th</sup> edition, which has been handed to the participants of the Congress. Besides the 'legal draft,' a list of recommendations<sup>4</sup> has been drawn up reflecting aspirations of the people; unavoidably a quite politically loaded document. In a number of meetings with the steering committee it has been stressed that the recommendations should be an inseparable part of the whole document on special autonomy; the recommendations deal with items that can be applied straight away and should restore the trust of the people in its government, while the substantial legal document as such is at risk of being subject to discussions for months (if not years).

The concept as presented is quite balanced and reflects the effort the UNCEN commission has made to establish a bridge between the struggle/movement in Papua over the last two years and what can be obtained politically and practically at this very moment. For insiders the concept represents a step (not the final one!) in the long-term strategy to deal with the "Papua problem," including the openness to a political dialogue. This last element is assured in the concept wherein a special Committee has been proposed to deal with the rectification of history. Similar terms have been put in to deal

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<sup>2</sup> The mentioned references refer to the official conceptual document, which has been handed to the House of Representatives of the Indonesian Republic (DPR-RI) to be considered and decided on. The document is titled: "Rancangan Undang-Undang Republik Indonesia, tentang Otonomi Khusus bagi Propinsi Papua".

<sup>3</sup> "Forum for Discussion on the Special Autonomy Law, moving to a New Papua".

<sup>4</sup> See list of recommendations; Appendix 1

with human rights violations in the past, as well nowadays and in the future. In the concept special attention is given as well to the role of traditional leadership in the Papuan community, trying to integrate it into the legislative and administrative structure proposed. As such the concept is of a good quality, and the UNCEN team did a very responsible and 'neutral' job trying to accommodate the real aspirations of the people.

Looking back to the events over the last days, it has become clear – in my opinion – that too little time was available for more socialisation of the draft; this lack has been paid for quite dearly. On Wednesday (28 March 2001) the congress opened; present: 28 representatives of each district, totalling a bit more than 400 people. In front of the building some demonstration was going on by about 150 people carrying banners and shouting their protest, but not hindering anyone who was meant to take part in the meeting, and even greeting them joyfully, while at the same time protesting. So the atmosphere wasn't really aggressive, and the protests were valued as just normal and acceptable. The opening ceremony was of a high quality, giving participants a chance to get the feeling and understanding why they came and what task lay ahead. In both speeches (by the rector of the university and governor) a realistic picture was given and no overdone promises were made.

After the opening ceremony, things ran out of hand as a big group of people (mainly students together with members of the Papuan Council/Panel – the figure estimated: 500 people) forced its way into the meeting hall and started giving their opinion, which in effect meant rejecting the autonomy discussion completely. (I had left the meeting hall 10 minutes before it happened.) So the situation became tense; the police (all around the building) fired some warning shots and got into a clash with a number of people (which by the next morning had resulted in the death of one protester in the provincial hospital because of the injuries he suffered while being trampled in the clash with the police the day before); the situation outside was taken control of by the police quite fast and left some destroyed tents/ shelters and broken chairs as silent witnesses of what had happened minutes before. Inside the building the protesters were given time to voice their protest; after being listened to, they were invited by the organising body to stay on and listen as well to the explanation about the Contents of the Special Autonomy as drafted by the UNCEN team, and which was scheduled to be discussed. The protesters refused that offer and invited everybody who agreed with them to walk out; roughly a bit more than a third of the "official delegates" joined the walk-out (and didn't show up for discussions the next day). The protesters left the place and made a long march to Abepura (about 20 kilometres from the meeting hall). Although there was a victim to be mourned and some limited material damage was done, in general the protesters were clearly interested in only a peaceful protest and acted that way once they were in the meeting hall.

The meeting was held up for a couple of hours, and then continued with the people still present; explanation was given (by ex-governor and nowadays Indonesian Ambassador in Mexico, Mr. Bas Suebu) about the background and Contents of the concept of special autonomy, and after that the district heads (Bupati) were asked to get together with their people, the officially invited ones as well as the protesting ones (if possible) of their district, and try to come up with some 'message' for the meeting the next day.

The next morning every district reported on the results of its discussions. Most of the delegations present went along with basics of the concept as offered by the UNCEN team, while adding points to be taken care of, but at least one third of the delegates there the day before didn't show up again, and at the time might be protesting together with the student group in Abepura (at the UNCEN complex).

Late in the afternoon the congress closed without further disturbance. There was a rumour that people planned to bring the corpse of the deceased protester to the meeting hall. But at the end that seemed to have been prevented; by whom and how is not clear. Concerning this same matter it is quite remarkable (even more than that!) that no visible protest was staged after the message came through that a casualty of the

clash had died in the hospital; once again it is not clear why this (expected) protest didn't materialise.

Having obtained the input by all the delegations as reported on above, the UNCEN team set itself to work once more, to accommodate the input into another draft again and to work slowly toward the final draft, which will be presented to the central administration in Jakarta by 1 May.

#### Personal evaluation

Overlooking the whole event I think that an opportunity to get the people's aspirations into the open via a respected institution like the University has been substantially spoiled. I tend to see this as a setback, as the university team working on this issue had drawn up a rather balanced paper, especially as they complemented the 'legal draft' with a list of recommendations that included almost all the demands over the last two years; meaning that they included the call for a political dialogue to rectify Papua's history (an item included in the legal concept of the autonomy paper as well).

I have the impression that its work has been rejected mainly because people who voiced their refusal didn't really take notice of or didn't understand fully what was meant to be achieved, and limited themselves to just opposing "special autonomy" to "freedom/ independence" (which has been normal practice over the last two years). The negative reaction of "simply ignoring or refusing" might also have been a remote result of the Second Papuan Peoples Congress in May-June 2000. During the Congress the importance of "going international" (obtaining international understanding and support) as well as the refusal of any autonomy-offer (as the opposite of the demand for independence) were heavily stressed and propagated. This emphasis resulted in an attitude of too easy relying on "foreign powers" to save Papua and marked the "domestic dynamics" as completely untrustworthy.

This kind of easy polarisation might have been prevented if more time had been available to socialise the draft that was made after a number of working group members went to the various districts to get the people's voice. An outstanding failure in the socialisation process (if there was any) is the fact that even the student community at the UNCEN complex had not been involved in previous discussions; their involvement at an earlier stage might have prevented a lot of misunderstanding. It has been repeatedly stated (in the speech by the rector of the university, as well in the speech by the governor) that this was not a final stage, but just a step within the whole process of dealing with the real aspirations of the Papuan people.

## **7. THE JAKARTA PROCESS**

Once the draft bill was handed over to the DPR-RI, a difficult lobbying game started in Jakarta.

First, there was the issue of whether this new concept would be the very base of the discussions in the DPR-RI, or whether it would lose out against the one that had been presented way back in December. There was a real danger that exactly the last would happen, and the new draft would only be handed out as a kind of additional explanation. Therefore the Governor with the UNCEN team decided to have an almost permanent lobby group in Jakarta to get the new draft accepted as the only draft to be discussed. In the end they succeeded in getting the new draft through, which might be seen as a relatively major success.

At the same time we have to conclude from a number of comments in the press, mainly made by the Governor, that the hard core of the new draft is its demand for greater economic returns (70% or 80% of the revenue from exploitation of natural resources)<sup>5</sup>. This emphasis confirms once again that for the government the problems in Papua are mainly focused on as "development problems". In stressing the economic dimension of the draft as the most substantial part, the door was opened wide for the DPR-RI to curtail the remainder of the draft while advancing the economic content.

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<sup>5</sup> see: Cepos, April 19<sup>th</sup>, 2001

We note this change in accentuation as we think it doesn't honour the real effort made by the UNCEN group to get a wide scope of people's aspirations included in the concept, and to handle it as a comprehensive document. We expect that it will be proved a mistake to reduce the problems in Papua once again to the mere failure of a development policy, and to make people in 'Jakarta' believe that as well. Once again an opportunity to make the central government more familiar with the real problems in Papua might have been spoiled.

Effective discussion in the DPR-RI began in September and ended with the endorsement of the Special Autonomy for Papua on 22 October 2001.

## **8. CHANGES MADE**

It might be helpful to have a summarising look at the significant changes (exclusively related to changes in contents) made in the process from original draft to the approved document.

Comparing the original draft and the final document, the Chapter in the original draft dealing with "Court Authority and Police" has been split into two in the final document (one on the Police, and one on Court Authority). In the following overview we will use the Chapter's indication as used in the final document.

Chapter	Topic	Draft	Final Doc.	Changes	Comment
Preface	Cultural identity	Art. e	Art. e	Contents <sup>6</sup>	Substantial
	Development policy	Art. f	Art. f	Contents <sup>7</sup>	Weakened
	Own policy	Art. h	Art. h	Contents <sup>8</sup>	Restrictive
	Name	Ch. II , 2	Art. k	Contents <sup>9</sup>	Redaction
References		5 ref.	15 ref.	Contents <sup>10</sup>	Additional
Ch. I	General	Art. a	Art. a	Contents <sup>11</sup>	Restrictive
		Art. g	Art. h	Contents <sup>12</sup>	Restrictive
		Art. s	Art. t	Contents <sup>13</sup>	Enlarging
Ch. II	Symbols	None	Art. 2.1.	Contents <sup>14</sup>	Substantial
		Art. 2.2.	Art. 2.2.	Contents <sup>15</sup>	Restrictive

<sup>6</sup> The original stresses that the Papuan culture is rooted in the Melanesian pattern of culture and therefore differs from most of the cultural identities in Indonesia. The final document stresses first of all that the Papuan people are a part of the indigenous peoples in Indonesia, before admitting that there is difference of culture, language, tradition and history.

<sup>7</sup> There is slight difference in appreciation: where the original draft states that the development policy “not yet” favours the Papuan people on a number of aspects, the final document weakens the statement by adding “not yet *fully*”.

<sup>8</sup> Where the original draft states: the Papuans should have their own government; the final document applies a clear limit by stating “a special policy is needed within the unity of the Indonesian Republic”.

<sup>9</sup> The final document adds an Article as follows: “taken into account the situation and condition of the Irian Jaya Regency, especially the aspirations of its people to get the name Irian Jaya changed into Papua as expressed in the decision by the DPRD...”

<sup>10</sup> In the References section, a number of official governmental decisions are mentioned. In the original, 5 references were included; in the final one, 15. The original draft limited itself to referring to the Constitution and some MPR decisions since 1998, whereas the final document lists official decisions since 1962 besides referring to the RI Constitution.

<sup>11</sup> While the original draft states that “special autonomy” will be given to the Papua Regency, the final document states the same, but adds: “within the context of a Unitary State of the Indonesian Republic”.

<sup>12</sup> This Article deals with the place of ‘an own flag’, ‘an own anthem’ and ‘logo’ (Mambruk bird [Crested pigeon] instead of Garuda bird); while the original draft qualifies these elements as “expressions of identity of the Papuan people”, the final document values them as “cultural symbols” and explicitly refuses them as “symbols of independence”.

<sup>13</sup> In this Article a definition is given determining who can be considered as indigenous Papua people. In the final document the definition is enlarged: “Indigenous Papua people are the people who originate from the Melanesian race in Papua-land *who consist of indigenous people in the Papua regency and/or people who have been accepted and recognised as indigenous by the traditional community of Papua*”. The part in italics is an additional part in the final document.

<sup>14</sup> In the final document this Article is added: “Regency Papua as a part of the Unitary State of the Indonesian Republic uses the white-red flag as the national flag and Indonesia Raya as the national anthem”.

<sup>15</sup> Both documents recognise the right to use local symbols (flag and anthem), but in the final document the use of these symbols is explicitly specified as “cultural expressions and cannot be used as independence

Ch. III	Regional division	Art. 5.4	Art. 3.4.	Contents <sup>16</sup>	Restrictive
Ch. IV	Regional authority	Art. 6.1.	Art. 4.1.	Contents <sup>17</sup>	Restrictive
		Art. 6.4.	Art. 4.8.	Contents <sup>18</sup>	Restrictive
Ch. V	Regional government	Art. 8.1.	Art. 5.1., 6.1. & 20	Contents <sup>19</sup>	Substantial
		None	Art. 10, 14 & 23	Contents <sup>20</sup>	Substantial
Ch. VI	Civil service				
Ch. VII	Political party				
Ch. VIII	Special rules or laws				
Ch. IX	Finances	Art. 32.2.	Art. 34	Contents <sup>21</sup>	Detailed
Ch. X	Economy	Art. 36.1.	Art. 39	Contents <sup>22</sup>	Restrictive

symbols”. In the final document the use of the Mambruk Bird as a regional symbol is omitted.

<sup>16</sup> In relation to changes, new formation or restructuring of the administrative units in the regency, the original draft states that the authority to do so should be in the hands of the regency government. The final document changes this authority to the *right to propose these changes* to the central Government, which at the end will decide.

<sup>17</sup> The final document excludes more fields from regional authorities than the original draft; the additional excluded field is Religion.

<sup>18</sup> Where the original draft provides for a “participating role by regional Parliament and Government” in decisions about the deployment of security forces, the final document reduces this role to a “coordinating function of the Governor” with the central government.

<sup>19</sup> Although the original draft positions the MRP (Majelis Rakyat Papua = comparable with the House of Lords, whose members consist of traditional leaders and representatives of various indigenous interest groups) as a *part of the legislative body*, the final draft limits the legislative body to the DPRP (Papua House of Representatives). Based on this principal allocation of position, a lot of changes are made in relation to the original draft, which at the end might be summed up in the difference between a ‘decision making’ position (DPRP) and a ‘consultation’ position (MRP). Nevertheless the MRP is given the authority to “agree or refuse” decisions by the DPRP (Art. 20). So, the real MRP position isn’t that clear. But it should be noted that the concept of a Parliament consisting of two ‘houses’, which is launched in the original draft, is not found anymore in the final document.

<sup>20</sup> In the final document an Article is added concerning the obligations of the DPRP (Art. 10) and MRP (Art. 23), which stresses its obligation to “defend and care for the unity of the State of the Indonesian Republic”; in the original draft there is no such an Article concerning obligations of the DPRP. A similar addition is made under the obligations of the Governor (Art. 14).

<sup>21</sup> In the original draft the revenues from natural resources were just claimed without specification; the final document details the revenues: 80% from forestry, 80% from fisheries, 80% from mining in general (this might include Freeport mining and such?), while 70% from oil exploration and 70% from gas exploration. The 70% revenues from oil- and gas exploration have to be spent partly (minimum 30%) on education, and partly (minimum 15%) on health care. After 25 years the revenues from oil- and gas exploration will be lowered to 50%.

<sup>22</sup> In the original draft it is demanded that the processing of raw materials should be completely done in Papua; in the final document this claim has been weakened by making processing dependent on principles of a sound, efficient and competitive economy.

Ch. XI	Traditional rights	Art. 39	Art. 43	Contents <sup>23</sup>	Restrictive
Ch. XII	Human rights	Art. 41	Art. 45	Contents <sup>24</sup>	Restrictive
		Art. 42	None	Details <sup>25</sup>	Omitted
		Art. 43	Art. 46	Contents <sup>26</sup>	Restrictive
Ch. XIII	Police force	Art. 47	Art. 48, 49	Contents <sup>27</sup>	Substantial
Ch. XIV	Court authority	Art. 45	Art. 51	Contents <sup>28</sup>	Restrictive
Ch. XV	Religion				
Ch. XVI	Education & culture				
Ch. XVII	Health				
Ch. XVIII	Population	Art. 55	Art. 61	Contents <sup>29</sup>	Substantial

<sup>23</sup> Both documents recognise the traditional rights, such as those related to land, and any use of the land has to be based on mutual agreement. However, the final document stipulates very clearly that traditional rights are subordinated to national law and regulations. Herewith it counters the more radical tune of the original document, which claims recognition of almost absolute traditional rights on land and water with all its richness.

<sup>24</sup> Both documents urge the formation of a special Commission for Human Rights. The difference is found in the official status (hence independent authority) they are willing to provide. In the original draft a purely Papua-based and organised Commission is demanded, while in the final document a *branch*-Committee under the official National Commission for Human Rights is agreed on. In the final document the Commission is meant to be set up by the central government, and not by the Papua government (original draft).

<sup>25</sup> In the original draft a special Article is inserted concerning the compensation for victims of human rights violations in the past (since 1 May 1963); this aspect is omitted in the final document.

<sup>26</sup> These Articles deal with a very politically loaded issue, ie the ‘rectification of history’. In the original draft, a “Commission for rectification of Papua’s history” under the complete authority of the Papua government, is called for. In the final document, a “Commission for Truth and Reconciliation” is agreed on, to be set up by the central government after consultation with the Papua Governor. Besides being under different authority, the formulation (in the final document) of the Commission’s main task is “(1) to provide clarification of Papua’s history in order to strengthen the people’s unity in the State of the Indonesian Republic, and (2) to formulate and decide on steps towards reconciliation”. In the original draft the task of the “Commission for rectification of Papua’s history” is not explicitly formulated, but the need for the commission is put within the context of “reaching final and comprehensive solutions related to the difference of opinion on the history of integration of Papua into the Republic of Indonesia”. See also Appendix 2.

<sup>27</sup> Comparing the two documents, the most striking change related to the police force is the fact that in the original draft a police force under complete regional authority is asked for, while in the final document a police force as integral part of the national police force is agreed on.

<sup>28</sup> In both documents a role for a “Pengadilan Adat” (Traditional Court) is recognised. In the original draft the authority of this traditional court is only subordinated to the National Court in case its decision violates human rights; in the final document the functioning of the traditional court is sanctioned, but can be overruled by the national court in the event that one of the conflicting parties opts for a revised process at the national court.

<sup>29</sup> Within the demographic policy it is demanded in the original draft to stop completely any transmigration program; in the final document transmigration is still agreed on, be it only with the approval by the Governor.

Ch. XIX	Development environment				
Ch. XX	Social				
Ch. XXI	Supervision	None	Art. 68	Contents <sup>30</sup>	Substantial
Ch. XXII	Co-operation				
Ch. XXIII	Transition	Art. 68	Art. 75	Contents <sup>31</sup>	Restrictive
		Art. 69	None	Contents <sup>32</sup>	Omission
Ch. XXIV	Epilogue	Art. 70	Art. 76	Contents <sup>33</sup>	Substantial
		None	Art. 78	Contents <sup>34</sup>	Additional
		Art. 74, 75	None	Contents <sup>35</sup>	Omission

## 9. AN OVERVIEW

Overviewing the significant changes as summarised above we might conclude:

**First of all** it becomes clear that in the final document the basic assumption is that Papua is and always will be an integral part of the Indonesian Republic. The final document leaves no doubt as to that matter.

**Secondly**, in line with this basic assumption, the demand for open research into the history of Papua is virtually made impossible; the nomination (by Jakarta) of a “Commission for Truth and Reconciliation” (CTR) doesn’t serve properly the need for an open-ended political dialogue. It might even be concluded that setting up a CTR as viewed by the government is not really meant to open up the truth, but mainly meant to strengthen the national unity. Herewith the CTR loses its original principal contents and purpose.

**Thirdly**, a similar remark relates to another important element: the Human Rights Commission. Also this one is mainly put under the central government’s control.

<sup>30</sup> Both documents deal with the need for social control; the original document deals with it in very general terms, while in the final document a special Article is inserted dealing with the right of the central government to ‘supervise’ any decisions, regulations, etc settled for on the regional level. Even the use of repression is granted to the central government within this context (Art. 68.2). Especially the use of the word ‘repressive’ in this final document suggests far-reaching authority (including the right to overrule?) for the central government.

<sup>31</sup> This Article in both documents sets a deadline for the effective implementation of the Special Autonomy Law. While in the draft, a period of 5 years is recommended; in the final document a period of 2 years has been agreed.

<sup>32</sup> This Article in the original draft is completely omitted in the final document. The Article relates to the work of the Commission for Rectification of History: “If the results of the (Commission for) rectification of history show that the process of integration of Papua into the Unitary State of the Indonesian Republic in the past doesn’t accord with International Law in relation to the people’s right of self-determination, the central government and the Papua people, via its parliament, will take steps towards a solution”.

<sup>33</sup> While in the original document any redivision of the region into more sub-regions is rejected, the final document leaves that possibility wide open.

<sup>34</sup> While in the original draft a periodic evaluation is not mentioned, the final document settles for a yearly evaluation of the implementation, to start at the end of the third year.

<sup>35</sup> Both of these Articles in the original draft refer to the possibility of using a referendum. The referendum should be used when substantial changes in the Special Autonomy Law or the National Constitution are at stake (Art. 74), and in event that the Special Autonomy law proves not to be implemented effectively after 5 years, a referendum should be held “to determine the political attitude of the Papua people” (Art. 75). Both Articles haven’t got a place in the final document.

**Fourth**, the real position of the MRP ('House of Lords') is kept very ambiguous, and the impression is given that it will end up being more a part of 'window-dressing' rather than of a 'decision-making body'.

**Fifth**, the display of 'local symbols' is restricted to expressing 'cultural identity' only. This will trigger heavy discussion in the future, and leaves the possibility open for the security forces to act when *they* value that the symbols are used otherwise. The restriction to 'expression of cultural identity' effectively makes a spontaneous display of local symbols a very risky matter.

**Sixth**, the supervising role of the central government is quite ambiguous as the use of 'repression' is granted within this context.

**Seventh** to implement the "special autonomy law" a great deal of work must be done to translate the 'principles' into concrete regulations (regional laws). Within this process a lot can change or move away from what is originally opted for. The need for an extensive as well as intensive social control is very real to prevent a situation whereby in the end the regulations just serve certain interest-groups.

Although a number of important changes have been made (and could be expected to be made), the Special Autonomy Law still leaves ample room for a new role for the Papua people in future socio-political decisions, *on condition* that the new law is implemented properly. It might help substantially to improve matters such as education, health care, local economy; it might help also to realise a better and more visible respect for local traditions, and for all the daily display of respect for the dignity of the Papua people. It might help to improve the situation of respect for human rights and to lead perpetrators to court. But as to the need for justice to be done it should be noted that the Judiciary Body as agreed in the final document leaves a lot of doubts as to its effectiveness.

So, the least that can be said is the fact that the Special Autonomy bill, if implemented correctly, will create new room for 'freedom' in relation to well-being (economics; education; health; local needs) and in relation to human rights (participation; respect for people's identity; traditional rights; local aspirations).

The Special Autonomy bill offers little room towards an open-ended political dialogue, and therefore fails to address one of the three main components of "the call for political freedom".

#### **10. THE CALL FOR FREEDOM/INDEPENDENCE: a "THREE in ONE"-model**

The impact of Special Autonomy as briefly pictured above is connected to the way we interpret and look at the call for freedom/independence in Papua. In trying to understand the breadth of the contents of that call, we can distinguish (not separate!) three components in that call: [1] a political component, [2] a social-cultural component, and [3] a development (economical and others) component. The three components are heavily interrelated and therefore appropriately can be valued as **"Three in One"**.

To be more specific, we will dwell a little longer on this basic concept/understanding. Listening to people with regard to "freedom/independence" covers three worlds of interests:

- ❖ the awareness of the fact that the Papuan people have never had a fair and free chance to determine their own fate. Within that context the event of 1969 (Act of Free Choice) is looked on as a shameful and illegal event, violating International Law. It becomes more and more clear that the Papuans are not alone in that opinion<sup>36</sup>. Based on this awareness there is the call for

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<sup>36</sup> Compare the comments recently made by one of the persons very close to the event. "It was just a whitewash. The mood at the United Nations was to get rid of this problem as quickly as possible," said Chakravarthy Narasimhan, a retired UN undersecretary-general who handled the takeover. "Nobody gave a thought to the fact that there were a million people there who had their fundamental human rights trampled," he said from his home in Madras, India. "How could anyone have seriously believed that all voters unanimously decided to join his [Soeharto's] regime?" Mr Narasimhan said. "Unanimity like that is unknown in democracies."

“rectification of history” and in more extreme terms, the call for an independent state. This is the political component of the “Three in One”-model.

- ❖ the collective experiences of the Papuan people. These experiences include the fact of not being considered and respected as real human beings; to be looked upon as objects for projects (which often only benefit the project-holder); being regarded as an ‘enemy of the state’; living in fear (of the security forces); being intimidated; the denial of freedom of speech and gathering; the denial of human dignity. Therefore the call for freedom/ independence includes the call for an end to all forms of oppression and violation of human rights. It includes the call for justice to be done. This is the socio-political-cultural component of the “Three in One”-model.
- ❖ the lack of a development policy, which is able to raise the well-being of the local Papuan community. The centralised policies as implemented didn’t respond to the local needs, and mainly benefited external parties. The valuation is widely accepted and even seen by the government as the main source of the problems in Papua. For sure it is an important element, but for sure as well not the only – or even the most important – source of the problems. This development component is the third component in the “Three in One” model.

Given the above model of analysis, the Special Autonomy will provide a possibility for real improvement on at least two of the abovementioned components of the call for freedom/ independence (socio-political-cultural and development), and only marginally –if at all- responds to the third component (political).

#### **11. MOVING BEYOND A PARALYSING POLARISATION**

Although only partially responding on the whole comprehensive “Three in One”-model, it is still worthwhile to benefit from Special Autonomy, and it *shouldn’t be seen as the “opposite of the call for freedom/ independence”*, but for what it is: **a partial response**, but still a real response.

It leaves all room open, or even invites an intensified rightful demand for political dialogue, as well as for justice to be done effectively; it doesn’t exclude these aspects from being peacefully struggled for, for the simple reason that it fails to address them properly.

There will be no final comprehensive solution without these – the opening for an open political dialogue, and for effective justice - and that reality should be understood by anyone who tries to understand honestly what the real problems are in Papua.

Accepting Special Autonomy might help everybody to *leave behind the model of paralysing polarisation* into O (Autonomy) and M (Independence), and might really help to put the peaceful call for freedom/independence, included the call for justice and an open political dialogue in its rightful perspective.

Theo van den Broek ofm  
Director SKP/Office for Justice & Peace, Jayapura

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Other former UN officials agreed. Brian Urquhart, another retired UN undersecretary-general, said: "It was arranged to have the UN put the seal of good housekeeping on the easiest but not necessarily most democratic way to resolve the problem."

## APPENDIX 1

Within the context of building up and establishing strong bases for dialogue and reconciliation between the government of the Indonesian Republic and the Papua people, the “Forum for Discussion on the Special Autonomy Law, moving to a New Papua” recommends to the Government of the Indonesian Republic in Jakarta to:

- ❖ Show readiness and open up for the realisation of a national and international dialogue involving the Papua people in order to find a solution to the difference of opinion in relation to the history of integration of Papua into the Indonesian Republic; the dialogue should be based on the principles of honesty, justice, truth, respect of human rights and international law.
- ❖ Release all Papuan political prisoners without condition as a first concrete step towards reconciliation between the people and the government.
- ❖ Empower the whole regional police force in the Papua Regency to execute optimally their tasks in enforcing just law, and withdraw the nonorganic army- (TNI) and police-units (Brimob/Mobile Brigade) in order to establish a “Zone of Peace” in Papua.
- ❖ Speed up the formation of a Judiciary Body for basic Human Rights in the Papua Regency within the context of addressing fully (*secara tuntas*) human rights violations and the allocation of compensation and rehabilitation to the victims and their hereditaires.
- ❖ Grant the opportunity as freely as possible to the indigenous Papuans and their descendants who for the time being reside abroad and who desire to settle back home in the Papua Regency.
- ❖ Eliminate and do not use again any word/concept that applies a negative stigma to all the efforts by Papuans to demand their rights to be respected.
- ❖ Accept back with open arms, without legal process, and while guaranteeing their well-being, all those OPM/TPN members who opt to leave behind their armed struggle and choose to join the Papua community in their political struggle to get their rights respected.
- ❖ Accept without changes and endorse the Special Autonomy Concept that has been drafted by the Papua people to become a law as soon as possible.

Appeal to the whole Papua community to value highly (*menjunjung tinggi*) in their daily social life their traditions and customs (*adat istiadat*) and proper Papuan behaviour (*sopan santun orang Papua*) within the context of creating Tanah Papua as a zone based on peace and love.

Appeal to the whole Papua community in Tanah Papua as well as to the government, army and police to respect human rights and value highly democracy and the supremacy of law.

This recommendation issued at Jayapura, Papua Regency, on the date....

Sydney Morning Herald Thursday, December 6, 2001

## Letters: Legal recognition

In responding to your editorial (*Herald*, November 27) it is necessary to reiterate that Indonesia's sovereignty over Papua is final and will always be so. First, an international legal principle recognised this. The principle asserts that the boundaries of nascent post-colonial countries conform to their pre-sovereign ones.

According to this principle, at the time of proclamation of independence on August 17, 1945, Indonesia had automatically become the legal successor to all territories, including West Papua, which during colonial times was called the Netherlands East Indies.

The Dutch colonial power argument that Papuans should be separated from the rest of Indonesia because they were Melanesians is wrong since the Dutch recognised well that Indonesia is made up of multi-ethnic societies, including many people of Melanesian origin, and in larger numbers than those who reside in West Papua. If we support this argument, then we believe that countries should be formed by one ethnic or racial group, and that would undermine our multiracialism.

Second, it was only because the colonial power ignored that international legal principle that the decolonisation of Indonesia was not completed until Indonesia's sovereignty over Papua was restored through the United Nations.

**Lutfi Rauf, First Secretary (Information), Indonesian Embassy, Yarralumla (ACT), November 27**

Sydney Morning Herald December 7, 2001

## Letters: Freedom will come

In reply to Lutfi Rauf of the Indonesian Embassy (Letters, December 6), even United Nations officials have now stated that the referendum granting West Papua to Indonesia was rigged. It was a disgraceful performance by the world body.

Futhermore, if it was acceptable for Indonesia to want its freedom from the Dutch, why is it less valid for the West Papuans to want their freedom?

Finally, nothing lasts forever, eventually West Papua will be free.

**John G. Way, Burraneer, December 6.**