

Exploring The Dynamics of Insurgency, Belligerency, and Liberation Movements with The Organization of Papua Merdeka

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Abstract

International Law has developed significantly as there are new subjects in International Law. The rebellion groups that arise from time to time become an important matter to be discussed in the field of International Law, particularly in International Humanitarian Law. The rise of OPM in Indonesia is one of the cases to be studied in international law. This paper aims to analyze the status of OPM in Indonesia from the point of view of International Law. The analysis was elaborated on from the study of insurgency, hostility, and national liberation movements, followed by a legal study to determine the status and position of the OPM. This is a narrative review of literature and the sources are from scientific writings, case reports, and international law literature supported by news and written opinions of legal experts relevant to the subjects discussed. The information from those sources was extracted, classified, and analyzed quantitatively to answer the research question. This study concluded that, despite its history and tactics, the analysis finds that the OPM is not a national liberation movement or belligerent entity under international law. As an internal uprising, OPM must observe Indonesian law. The study emphasizes the need to address the political, economic, and social issues fueling the conflict to find a long-term solution. The Indonesian government should address Papua's social and economic issues, and Clarifying international law on self-determination is also crucial to avoid misunderstandings that could favors separatist aspirations

Keywords: *Belligerency; International Law; Insurgency; Organisasi Papua Merdeka.*

1. INTRODUCTION

Papua¹ is an area located in the eastern part of Indonesia, where there have been a variety of problems. These problems are among others mining, ethnic and customary issues, and disintegration threats. During the Orde Baru government, the nationalism implanted in Indonesia was colored by a repressive effort. The repressive government tends to bring about a narrow nationalism. This narrow form of nationalism is an assessment among Papuans that there is no meritocracy within the Papua Provincial Government, where the strategic position in provincial government structure tends to be dominated by certain

¹ Papua was formerly province in Indonesia and had returned to Indonesia based on New York Agreement signed between the Netherland and Indonesia in 15 August 1962. The agreement was noted by the UN GA on the Resolution No. 1752 (XVII). The authority has handed over from the government of the Netherland to the UN (in the form of United Nations Temporary Executive Authority-UNTEA) on 1 October 1962 for then to be handed over to the government of Indonesia on 1 May 1963. Papua become part of Indonesia through People's Opinion Determination (Penentuan Pendapat Rakyat, Pepera) during 14 July through 2 August 1969, which the result become official with the UN GA Resolution No. 2504 issued 19 November 1969.

Papuans ethnic². The condition becomes more complex when the interaction between Papua ethnic and immigrants ones is often dis-harmonious. The problems of the Papuan conflict are increasingly complex when there is discrimination in economic development, marginalization of Papuan society, as well as violations of human rights that occur in the Orde Baru regime³.

The problems in Papua have caused the gap wider so that the empowerment of the Papuan people was hampered. The government failure in ensuring a rich region to produce a prosperous society, has fostered a collective awareness of the primordial identity of the Papuan. The people of Papua saw that the government needed only Papua's natural resources⁴. This idea makes the recollection about the memory of Papuans over the Melanesian Brotherhood⁵, the feeling of brotherhood with countries that are ethnically similar to the Papuans ethnic and has naturally already exist⁶. This has become one of the factors of some Papuans to separate themselves from Indonesia. The embryo of some Papuans who want to separate themselves from Indonesia has been going on since the colonial period⁷, even now this hope has tended to lead to a separatist movement⁸ involving physical strength and armed conflict⁹ between them in the form of separatist organization and security forces of Indonesia, both the Indonesian National Arm Forces (Tentara Nasional Indonesia, TNI) and National Police (Kepolisian Republik Indonesia, Polri). The conflict often brought victims, and there were also teachers and medical staff as the victims. It was not agreeable from any perspective¹⁰ and needs further proceeding. There are classifications of movement group from the perspective of International Law that direct the proper action toward or against them. The movement in Papua once was a group of people with the same vision and goals, developed bigger and spread their fathom through an organization called the OPM. However, there has been a subtle determination about what they actually are, especially from the perspective of International Law. When the organization recognized as one of the rebellious groups under International Law, several order and mechanisms should

2 M. Fathoni Hakim, "Perjanjian Keamanan Indonesia-Australia: Upaya Indonesia Untuk Mencegah Gerakan Separatisme Di Indonesia Timur" (Universitas Indonesia, 2010).

3 Ikbal, "Kedudukan Organisasi Papua Merdeka (OPM) Dalam Perspektif Hukum Humaniter Internasional," DIMENS HUKUM INTERNASIONAL, 2014, 201.

4 Papua has an enormous potential in mining, such as gold, copper, and silver, spreading from central to eastern Papua, while the natural gas mostly located in western part of Papua. The huge number of natural resources in Papua caused by the location of the territory, among mountainous and in the meeting of two tectonic plates, i.e. Asia and Australia. The mining sector contributed approximately 50 % of provincial income from the source of gold ore, nickel, and chrome. Besarnya Potensi Sumber Daya Alam di Tanah Papua, (2016), papua expo.com/2016/06/28/besarnya-potensi-sumber-daya-alam-di-tanah-papua/(last visited Jun 1, 2017).

5 Melanesia, Polinesia, dan Mikronesia located in Pacific Ocean. Melanesian is a group of islands spreading from Maluku to the east, western and northern Pacific to the eastern coastline of Australia. Countries located in the Melanesia region are Fiji, Indonesia (NTT, Maluku and Papua), Papua New Guinea, Solomon Islands, Vanuatu, New Caledonia, Timor Leste, and Samoa. Polinesia is a group of islands located in central and southern Pacific Ocean. Countries in Polinesia region are Polinesia (Frech), Tonga, Tuvalu, Samoa, New Zealand, Pitcairn islands (British colony), and Hawaii (the US state). Micronesia is a group of islands located in western part of Pacific Ocean. Countries in Micronesia are Micronesia Federation, Marshall Islands, Palau, Nauru, Kiribati, and islands which belong to the US government i.e. Mariana islands, North Mariana islands, Guam, and Wake Island. Recently, there is a group called Pacific Coalition for West Papua (PCWP) consist of several countries from Melanesia, Polinesia, and Micronesia, i.e. Vanuatu, Tonga, Palau, Tuvalu, Marshall Islands, Nauru and Solomon islands insist the Human Rights Council of the UN to investigate the presumption of human rights violation in Papua.

6 Ikbal, "Kedudukan Organisasi Papua Merdeka (OPM) Dalam Perspektif Hukum Humaniter Internasional."

7 Hakim, "Perjanjian Keamanan Indonesia-Australia: Upaya Indonesia Untuk Mencegah Gerakan Separatisme Di Indonesia Timur."

8 Sefriani Sefriani, "Separatisme Dalam Perspektif Hukum Internasional: Studi Kasus Organisasi Papua Merdeka," Unisia 26, no. 47 (January 2003): 41–53, <https://doi.org/10.20885/unisia.vol26.iss47.art5>.

9 Ikbal, "Kedudukan Organisasi Papua Merdeka (OPM) Dalam Perspektif Hukum Humaniter Internasional."

10 Mahfud Abdullah, "The Protection of Medical Officers in the Armed Conflicts; Case Study of Indonesia," *Jambe Law Journal* 3, no. 2 (2020): 141–64.

be followed under International Law. Moreover, International Law holds the notion of responsibility to protect which assume that every country responsible to protect their own citizens from avoidable catastrophe, but the responsibility will shift to the hand of international community when a country has no power or fail to perform for it¹¹. One of the ways to settle this problem is through arbitration but not limited to¹². However, if the organization falls the other way, it should be handled by the national law. Thus, this paper would like to analyze their status and position.

This paper was aimed to analyze the status and position of OPM in Indonesia from the point of view of International Law. Based on those findings, the second aim was to propose an alternative solution for the Papua issue regarding OPM. This was a narrative review of literature and the sources were from scientific writings, case reports, and international law literature supported by news and written opinions of legal experts relevant to the subjects discussed. The information from those sources was extracted, classified, and analyzed quantitatively to answer the research question. The analysis will be started from the study of insurgency, belligerency, and national liberation movement and followed by juridical study to determine the status and position of the OPM. The literature sources are from scientific writings, case reports, and international law literature supported by news and written opinion of legal experts relevant to the subjects discussed.

2. ANALYSIS AND DISCUSSION

2.1. Insurgency, Belligerency, And National Liberation Groups On The International Humanitarian Law Perspective

The rebellious group in the term of International Law cannot be discussed without looking carefully to the International Humanitarian Law as the part of Public International Law. The International Humanitarian Law itself span its scope to the law of war as well as the human rights law, which applied beyond state borders¹³. There are aspects and sides to be comprehensively concerned in discussing whether the rebellious group is International Law subject or not. In studying this matter, the comprehension of concepts such as insurgency, belligerency, liberation movement and self-determination become essential.

Based on International Humanitarian Law, the concept of insurgency, belligerency, and liberation movement are slightly different. There are both similarity and difference among the three, which need to be carefully analyzed. The insurgency and belligerency are similar in their aim in rejecting and/or against the legal government. However, they have difference in position, which should be understood by the legal government in each state. Therefore, the proper comprehension of many aspects in distinguishing the insurgency or belligerency group should be owned by the legal government. One of the aspects to be understood regarding the status of rebels is recognition.

Recognition has an essential part in International Law, because a status of a State can be acknowledge when it has at least one recognition from other one, both *de jure* and *de facto*. The recognition also become prerequisite in developing an international diplomatic relationship globally. Similar to a State, a rebellious group also need recognition, at least

11 Ibnu Mardiyanto and Hidayatulloh Hidayatulloh, "The Responsibility to Protect (R2P) Concept as an Attempt for Protection of Human Rights in International Humanitarian Law Context," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2023, 103–18.

12 Michael Herdi Hadylaya, "Harmonizing Arbitration: Clarity, Consistency, and Consent in the Application of *Ex Aequo Et Bono*," *Jambura Law Review* 6, no. 1 (2024): 88–101.

13 Moh Rosyid, "Menggugah Peran Hukum Humaniter Internasional Islam Dalam Mengurai Konflik Etnis Perspektif Sejarah," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 12, no. 2 (2012): 193–215.

from the State it is against. A recognition from the legal government which a rebellious group against, become a substantial start for the group to its existence¹⁴.

Rebellion is rejection to the legal authority¹⁵. Rebellion can be found in many various forms, from civil disobedience to the organized violent groups which aimed to destroy the legal authority¹⁶. Rebellion can be in the form of insurgency and belligerency, as well as liberation movement. Below there are simple explanation of the forms of rebellious groups.

2.1.1. Insurgency

Insurgency means rebellion who against the legal and sovereign authority as written by Gupta (2014): "Insurgency means rebellion, riot or mutiny by portion of the citizens of a State against the established government"¹⁷. In general, insurgency is rebellious group who did not receive recognition from any State yet.

There were many legal experts studied about insurgency and where it stands in International Law, however, there is not yet international understanding about both matters which become commonly accepted.

*While the precise definition of the insurgency is unclear, it seems to be the case that the insurgency is a type of civil disturbance which usually is confined to a limited area of the territory of the State and with the support of a minimum of section of the people in the State*¹⁸.

There are several characteristics that need to be fulfilled by a rebellion group to be stated as insurgency, based on international law analysis. Those characteristics are among others:

*Some essential conditions for recognition of insurgency can be listed as follows: a) The insurgents need to have control over a considerable part of the territory; b) Most of the people living in the territory must support the rebels for their own accord and not as a result of the enforcement actions taken by the insurgents; c) The insurgents must be able and willing to comply with international obligations*¹⁹.

Insurgency or insurgent can also be referred to as armed forces which consist of organized armed groups who carry out a rebellious act against their own State. The armed forces have their own aim which in contrary to the aim of their State. Insurgent can be mention as rebel against its legal country, however in fact it has not achieve an organized and regular order to conduct armed conflict. In this case, the armed group cannot be recognized as subject of International Law who carried rights and obligation of International Law²⁰.

For the rebellious group to be the subject of International Law, there are actually loose prerequisite to be fulfilled, i.e. (1) The rebellious group should prove that it has an effective occupation of the part of its country territory; and (2) the civil riot should

14 The term rebels is often used to refer to armed resistance to the ruling government, but can also refer to non-violent (political) movement of resistance. There are various terms associated with the rebels such as "non-state entities", "subversive groups", "armed civilian groups", "armed opposition" groups, "guerillas", "rebels" (rebels: lower gradations/insurrections: higher gradations). Furthermore, according to Arlina Permanasari, although bearing a very diverse terms, but there are similarities that are essentially a characteristic of the rebellion movement. The similarity is motivation, in general the motivation of the rebellion movement is to take up arms against a sovereign government or desire to overthrow and replace the official government. Arlina Permanasari, "ANALISIS YURIDIS STATUS HUKUM GERAKAN ACEH MERDEKA (GAM) MENURUT HUKUM HUMANITER," *TerAs Law Review* : Jurnal Hukum Humaniter Dan HAM 3, no. 4 (October 7, 2019), <https://doi.org/10.25105/teras-lrev.v3i4.5412>.

15 Dendy Sugono, "KAMUS BAHASA INDONESIA," 2008.

16 Sholehudin Miftahus, "ISIS, Pemberontak, Dan Teroris Dalam Hukum Internasional," n.d.

17 Rashi Gupta, "Recognition of Insurgent and Belligerent Organisations in International Law," *Available at SSRN 2457749*, 2014.

18 S K Verma, *An Introduction to Public International Law* (Springer Singapore, 2019).

19 Gupta, "Recognition of Insurgent and Belligerent Organisations in International Law."

20 Bima Ari Putri Wijata, *Insurgency and Belligerency* (Semarang, 2013).

achieve the particular intensity and duration (it cannot be only a sporadic and short-term violent action)²¹.

The 1962 House of Lords decision explained that the rebel or separatist movements can be considered as a subject of international law because it has the same rights as possessed by the subject of international law. The rebels charged such rights as to determine their own destiny, to choose the system of economic, political and social own, and be able to master the natural resources in the occupied territories. The rebels as a group as well as movements can be granted such rights as those who are in a state of disputes against the legitimate government, although not in the sense of complex organizations such as the state.

However, a careful study should be done in analyzing the resident status as subject of international law as well as international humanitarian law. Not all rebellious group can be considered as insurgent or belligerent. Spontaneous armed group who combats the legal authority without having the opportunity to organize themselves to meet the requirements of those who may participate in armed conflict cannot be considered insurgent or belligerent, but obtain the status as or are considered combatants. Therefore, they gain the status of prisoners of war when caught, as the consequences of being combatant. Article 4 Paragraph (6) of the 1949 Geneva Convention III regulates the qualifications of prisoners of war (falls under enemy rule) against *Levee en Masse* i.e. the inhabitants of the unoccupied territory when the enemy approaches. The qualifications are on his own free will and simultaneously takes up arms against the invading troops, with no opportunity to form ordered-armed-unions, as long as they carried arms openly and respected the laws and customs of war.

The old conceptualization about insurgents lies in the winning of the political powers thus, they are acknowledged by the people, and their authority becomes legitimate. Later on, they will develop into belligerents. However, in the dynamics of global interactions, the term insurgency is linked to the international terrorism phenomenon. Insurgents are thought to be related to violence and promote insecurity to erode public trust in an asymmetric war nowadays²². Some even often recruited foreign fighters interested in joining their struggle or simply because of the attraction of the goals or the existing conflict condition²³. However, not all of the experts thought so. Some believe that insurgents mostly exercise their power and influence within a state or country to gain people's attention, legitimation, and acknowledgement, without crossing state border or committing transnational crime or terrorism.

Belligerent actually is a new term for insurgent group with particular qualifications. Insurgent is rebellion group who has not gain recognition yet, while belligerent is rebellion group who has settled and quite strong politically, organizational, and military so it looks like a settled political power itself. Thus, this group is able to perform internationally on its own²⁴.

2.1.2. Belligerency

In the present time, International Law has developed significantly. There are not only new international conventions in order to face the modern challenge of

21 Antonio Cassese, "International Law" (Oxford University Press, New York, 2005).

22 Steven Metz, "Rethinking Insurgency," in *The Routledge Handbook of Insurgency and Counterinsurgency* (Routledge, 2012), 32–44; Allswell Osini Muzan, "Insurgency in Nigeria: Addressing the Causes as Part of the Solution," *African Human Rights Law Journal* 14, no. 1 (2014): 217–43.

23 Yordan Gunawan, Ghyats Amri Wibowo, and Mohammad Hazyar Arumbinang, "Foreign Fighters in the Ukrainian Armed Conflict: An International Humanitarian Law Perspective," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2023, 145–57.

24 John O'Brien, *International Law* (Psychology Press, 2001).

international matter, but also the rise of new subjects in the International Law. In the former time, State was the primary legal object of international law: “*International law was originally fashioned into one of the instruments for safeguarding the “personality” and existence of states*”²⁵. Later, the development of international law subject stated by Antonio Casesse as follows.

*In addition, the fundamental or primary subjects of international law are not individual, but States. They are entities, which, besides controlling territory in a stable and permanent way, exercise the principal lawmaking and executive ‘function’ proper of any legal order*²⁶.

Although the State is the most fundamental legal subject because of its nature, in reality there are some entities that appears to be legal subject in the development of international law. The subject in international law other than the state is belligerent. Under international humanitarian law, the separatist movement or rebellion is an armed opposition group combating against the State with the intention of becoming an independent and equal State, as well as standing equally with other countries. There is a requirement that the rebel group must fulfill in order to be recognized as a belligerent in which the customary law of war on the land applies. The 1907 Den Haag Convention IV in its enclosure states that a group must meet four conditions (often referred to as classical requirements), namely: Having a clear and responsible leader of his subordinates; Having uniform that can be known from a distance; Carrying weapons openly; and obey the customary laws of war²⁷.

A slightly different opinions come from Huala Adolf related to belligerent requirements, namely: “Rebellion has been organized in a regular leader power and responsible for the actions of his subordinates; Rebels have a clear identification or uniform and indicate their identity; The rebels in fact have effectively occupy several areas; and the rebels get support from the people in the territories they occupy”²⁸. On the other hand, Adji Samekto provides operational restrictions with regard to one of the requirements “to obey the laws and customs of war” i.e. the necessity of protecting civilians and distinguishing themselves from the civilian population²⁹.

The belligerent are rebels who have reached a stronger and more established level, both politically, organically and militarily so as to appear as an independent political entity. The independence of such groups is not only inward but also outward. In a sense that within certain limits he was able to appear on the international level for his own existence³⁰. Belligerent is in fact just like any other rebel; however, belligerent is a term used to refer to rebels who have gained recognition from a State in which the territory is occupied, or from other countries. This recognition implies the status of the rebel group being subject to international law, which was previously not as the subject of international law.

Recognition of the belligerent is regarded as political³¹, but in general there are four elements that must be met for a group to be categorized as belligerent, they are:

25 Werner Levi, *Contemporary International Law: A Concise Introduction*, Second Edition (Westview Press, 1990).

26 Cassese, “International Law.”

27 Permanasari, “ANALISIS YURIDIS STATUS HUKUM GERAKAN ACEH MERDEKA (GAM) MENURUT HUKUM HUMANITER.”

28 H Adolf, *Aspek Aspek Negara Dalam Hukum Internasional* (RajaGrafindo Persada, 2011).

29 Miftahus, “ISIS, Pemberontak, Dan Teroris Dalam Hukum Internasional.”

30 O’Brien, *International Law*.

31 Jawahir Thontowi and Pranoto Iskandar, *Hukum Internasional Kontemporer* (Bandung: Refika Aditama, 2006).

- 1) The rebels must be organized and perform under their recognized leaders.
- 2) The rebels must use clear identifiers or uniforms that indicate their identity.
- 3) The rebels must have effectively occupied part of the territory so that the realm of the territory is under his control.
- 4) The rebels must have the support of the people in the territories they occupy.

Article 13 paragraph (2) of the 1949 Geneva Convention³² also regulates belligerent qualifications i.e.:

- 1) Led by a person responsible for his subordinates
- 2) Has a permanent fixed identifier that can be known from afar
- 3) Carrying weapons openly
- 4) Conducting their operations in accordance to the laws and customs of war

Based on the author's perspective, the Taliban is of good example of belligerency. The Taliban is an Islamic militant organization founded in 1994 and has spread its influence and movement in Afghanistan. The Taliban exercise its power in Afghanistan within periode of 1996-2001 and adopted some of Afghanistan policies during its regime. At the near-end of 2001, joint forces of United States and Britain attack a terrorist organization namely Al-Qaeda which formerly known to be affiliated to the Taliban. The attack was then followed by a fierce combat between the two sides, resulting in the fled of the Taliban to Kabul. It marked the end of their power in Afghanistan³³.

2.1.3. National Liberation Movement

The position of the National Liberation Movement (NLM) remains a debate over their status as non-state actors or not. They may reject the label of non-state actors because they want to emphasize their aspirations and status as states. They also often be recognized as member in several regional inter-governmental organizations. The NLM may claim rights, and is subject to international obligations, even without any control over the territory or strict acknowledgment of its opponents³⁴. The category highlights the fact that non-state actors can become bound by international law under the terms of international humanitarian law treaties.

But the problem is that international law as a legal entity governing relations between countries generally refuse to accommodate non-state actors. Furthermore, legal instruments governing war³⁵ or armed conflict are formulated by States with a desire to regulate others so that the instrument has limitation on the binding party (the State) and does not give consent for non-state actors to bind themselves (accession of non-state)³⁶.

Higgins defined the war of national liberation as "*A war of national liberation can be defined as "the armed struggle waged by a people through its liberation movement against the established government to reach self-determination"*"³⁷. Self-determination has

32 Other than regulated in Article 13 point (2), the qualifications of belligerent also ruled in Article 1 1907 Den Haag Convention as group of conflicting parties with following qualifications:

- a. Lead by responsible commander;
- b. Has special symbols recognizable from a distance;
- c. Carrying weapons openly; and
- d. Operating under war regulations and customs.

33 Ahmad Sadzali and Durriyatul Afiqoh Uzma Madjidah, "Coups Government of Afghanistan From the Perspective of Islamic Constitutional Law," *Jurisprudence* 12, no. 2 (2021): 29–44.

34 Andrew Clapham, "Human Rights Obligations of Non-State Actors in Conflict Situations," *International Review of the Red Cross* 88, no. 863 (September 2006): 494, <https://doi.org/10.1017/S1816383106000658>.

35 Those instruments are 1949 Geneva Convention, 1907 Den Haag Conventions, and other modern international conventions regulating weaponry as Ottawa Treaty 1997 on Banning Landmines.

36 Noelle Higgins, "The Regulation of Armed Non-State Actors: Promoting The Application of The Laws of War to Conflicts Involving National Liberation Movements," *Human Rights Brief* 17, no. 1 (2009): 12.

37 Higgins, "The Regulation of Armed Non-State Actors: Promoting The Application of The Laws of War to Conflicts Involving National Liberation Movements."

regulated specifically in several international regulations among others Article 1 and Article 55 *United Nations Charter*, *Common Article 1 of The International Covenant on Civil and Political Rights*, and *The International Covenant on Social, Economic, and Cultural Rights*. Even *self-determination* included in the category of Jus Cogens norm which bind all States and acknowledged by the International Court of Justice (ICJ)³⁸.

Yet to date, there are still several different opinions regarding definition of liberation organization because the views of the organization are heavily influenced by political problems³⁹. Political problems are implicitly contained in the 1949 Geneva Conventions. As the principal instrument of international humanitarian law, the 1949 Geneva Convention is principally open to ratification by the State. The Convention is deemed to be universally binding and a part of the international customs binding on the States. But there are actually provisions on acceptance or binding that can be used by the national liberation movement to implement international humanitarian law. Several articles in the Geneva Conventions mentions “contracting Power” or “high contracting parties”, and do not mention States. Under the terms of power or powers in the convention, it can be concluded that the parties to the Geneva Conventions are not only States but also include the national liberation movement⁴⁰.

The recognition of liberation organization is a new conception, especially which followed by third world countries based on the notion that peoples are perceived to have rights, such as; First, the right to self-determination; Second, the right to freely determine the economic, political and social systems; Third, the right to control the natural resources of the territory it occupies. The determination of peoples’ status as a nation must be objective, so that it is not utilized by a small group of separatists who want to disrupt the stability of the international community with the necessities of their group⁴¹. International Humanitarian Law provides guidance in distinguishing between insurgency movement and national liberation movement,⁴² which specially termed as war of national liberation. The War of National Liberation has a special characteristic that warfare is limited to three kinds of armed conflicts only:

- 1) Armed conflicts that occurred during colonialism (colonialism)
- 2) Armed conflicts that occur in situations where there is foreign occupation (alien occupation)
- 3) Armed conflicts that occur in situations where the government of a state undertakes a racially oriented government (apartheid).

Article 1 Paragraph (4) of the 1977 Additional Protocol I⁴³ further regulates the rules as set forth in Article 2 of the 1949 Geneva Convention⁴⁴ which regulates armed

38 Higgins.

39 Thontowi and Iskandar, *Hukum Internasional Kontemporer*.

40 Higgins, “The Regulation of Armed Non-State Actors: Promoting The Application of The Laws of War to Conflicts Involving National Liberation Movements.”

41 Mochtar Kusumaatmadja, *Pengantar Hukum Internasional* (Binacipta, 1976).

42 International relations among countries also can be done with country which still in seek of self-determination rights, not in the form of sovereign state but in the form of movement organization as the representative of its people. For instance, is the Palestina Liberation Organization (PLO). The global community has admitted the PLO as representative of its people. On November 22, 1974 the UN has granted the status of permanent observer by the GA Resolution No. 3237. On 1980, the Austria Prime Minister, Bruno Kreisky, has admit diplomatically for the existence of the PLO and two weeks later the India fully admitted the PLO and change the status of PLO’s representative office in New Delhi as Palestina Embassy. The USSR in 1981 granted the official diplomatic status to the PLO and when Palestina National Council proclaimed the Palestina country on November 16, 1988, Indonesia acknowledges the proclamation the day after. A year after the acknowledgment, on October 19, 1989 in precise, the Foreign Affair Ministers of Palestina and Indonesia, Farouk Kaddoumi and Ali Alatas, respectively, signed a joint communique for opening a diplomatic relationship between the two countries in the level of Embassy.

43 1977 Additional Protocol I is an additional regulation relating to international armed conflict which has not yet ruled in detail on 1949 Geneva Convention.

44 Article 2 1949 Geneva Convention is regulating the armed conflict between High Contracting Parties, territorial occupation, and application of 1949 Geneva Convention towards states which is not High Contracting Party

conflict in which people are at war against colonial domination, foreign occupation and racist governments to exercise the right to determine their own fate. Article 1 Paragraph (4) of the 1977 Additional Protocol I provides a limitation of a nation (peoples) to fight to determine its own destiny. Article 96 Paragraph (3) of the 1977 Additional Protocol I also provides further restrictions on the authorities representing the warring peoples as regulated in Article 1 paragraph (4) of the 1977 Additional Protocol I. The application of Article 1 paragraph (4) of the 1977 Additional Protocol I as explained by Andrew Clapham is

“the authority representing the people struggling against the colonial, alien, or racist party to the Protocol can undertake to apply the Conventions and the Protocol by making a declaration to the depositary (the Swiss Federal Council)”.

Based on that opinion, the authors have the conclusion that the official Authorities⁴⁵ of those who wish to free themselves from colonial domination, foreign occupation, and racist governments who are participants of the Convention, may apply the contents of the Geneva Conventions and the Additional Protocol by making declarations to the depositary countries of the Convention and Protocol Additional (Swiss Federal Council). Based on the provisions of the foregoing articles, the authors conclude that thus the war of national liberation, occurs only where an official armed forces of a state are essentially fighting against foreign troops from a foreign country. This is in contrast to the actions of rebels against legitimate governments, because within certain limits of humanitarian law⁴⁶, the conflict is considered as a non-international armed dispute.

2.2. How Separatist Group Gain Their Status And Acknowledge?

The party entitled to determine the status of a rebel is a country where the insurrection itself or by another country.⁴⁷ If a country in dispute with a rebel group has acknowledged the rebel as a belligerent then the consequence of the country concerned should treat the rebels like prisoners of war as stipulated in the 1949 Geneva Convention III⁴⁸ and not as criminals. Either rebel or government also responsible for acts committed by insurgents towards foreigners which took place within the territory of the dispute, as provided in Article 35 of the 1949 Geneva Conventions.

Recognition of the rebels is necessary, so that the rebels will not be treated as ordinary criminals. However, despite the recognition has been granted, the government is allowed to destroy the uprising. Since the rebels have received recognition as war parties, the war is no longer considered a civil war. The consequence of that is that the law in use is a law of war that has been recognized in the implementation of non-international war as regulated in Article 3 of the 1949 Geneva Convention.

There are two stages of rebellion group in international law, the first stage is the stage of rebellion or called insurgency and the second is the advanced stage or called

of the convention. The article generally ruled the International Armed Conflict.

45 In this case, the official authority mentioned is not always a High Contracting Parties of Geneva Convention and 1977 Additional Protocol I.

46 Certain limitation is applied when there is an official authority (or government) or foreign country acknowledgement of insurgent becomes belligerent.

47 The qualification that ought to be fulfilled by foreign country is the neutrality.

48 The protection of war prisoner is regulated in 1949 Geneva Convention III. Article 12 of 1949 Geneva Convention III regulated the protection of the enemy's prisoner, not individual prisoner or military prisoner who has detained them. The detainer fully responsible for the treatment to the prisoner. Article 13 of 1949 Geneva Convention III regulated that war prisoner should be treated with humanity and the war prisoner cannot be treated to be object of physical harassment, any form of scientific or medical experiment which is not in accordance to medical or dentistry treatment and not based on his/her needs. The war prisoner should always be protected from threat, harassment, insults, and public display. Article 14 of 1949 Geneva Convention III regulated that war prisoner in any condition has rights to self-respect and dignity without sex-discrimination. Article 15 of 1949 Geneva Convention III regulated that the war prisoner's health should be guaranteed.

belligerency. In principle insurgency is a qualification of rebellion within a state⁴⁹ but has not reached the level of order as an integrated organization, thus cannot be recognized as an international person with rights and obligations under international law. The position of rebels or separatist movements in international law is still seen as a movement aimed at achieving success through the use of weapons. Thus, insurgency cannot be categorized as a civil war in international law.

If the insurgency has evolved over an increasingly widespread region, exhibits more organized⁵⁰, and has effectively occupied some areas of the country, then it proves that the rebels have been ruling over several areas de facto. At this stage, under international law, the state of rebellion has reached the stage of belligerence.

The recognition of armed groups as belligerent is essentially based on the willingness of a legitimate state government. Since such recognition will make the position of the rebel party stronger, the opposing state usually avoids to recognize the armed groups as belligerent. Based on the application of the 1949 Geneva Conventions,⁵¹ a non-international armed conflict between states and belligerents is no longer rely on state recognition and it is required by Article 3 of the 1949 Geneva Conventions. There are provisions which complement the 1949 Geneva Conventions relating to non-international armed conflict which is the 1977 Additional Protocol II.⁵² But by reason of threatening and obstructing in achieving national stability when States gives recognition of belligerent status, then there is a tendency for countries not to enforce Additional Protocol II, and even furthermore become reluctant to ratify.

2.3. The Separatist Group of Papua, Organisasi Papua Merdeka (OPM, Papua Independence Organization)

Armed conflict between the TNI and separatist movements in Papua (Organisasi Papua Merdeka, OPM) who wants to secede from Indonesia, has resulted in a sense of insecurity of the Indonesian people in general and the Papuan community in particular. Based on several sources, OPM activities are now becoming more organized even though it is sporadic in nature. In general, the activities of OPM divided into two, political activity with domestic and foreign scope,⁵³ and military activity which have a position under the command of National Army of Papua (Tentara Nasional Papua, TNP).⁵⁴ The implementation of TNP's duties is assisted by Papua Intelligence Services (PIS) which has the role of spying on migrants, TNI, and local officials.⁵⁵ There have been several armed contacts between OPM and the Government of Indonesia, namely :⁵⁶

49 Where there is a rebel, the government still possessed the rights and obligation as official authority. Thus, in accordance to the UN GA Resolution No. 2131 (XX) issued in 1965, any foreign country support to the rebel will be considered as intervention and breach of the international law. Aji Samekto, "Kasus Aceh Indonesia Tak Dapat Dituntut," 2003.

50 The change from insurgent to belligerent showed an advancement of organization and movement toward a massive and consistent movement therefore mimicking a governmental system.

51 F.Sugeng Istanto, *Perlindungan Penduduk Sipil Dalam Perlawanan Rakyat Semesta Dan Hukum Internasional* (Yogyakarta: Yogyakarta Andi Offset, 1992).

52 There were a lot of conflict between countries against rebellions post World War II. It is different from the era before the World War II which many conflicts happened between countries.

53 The international relation activities through the UN forum has proposed by seven Pacific countries regarding the indication of human rights violation in Papua, however nowadays the issue has shifted to the self-determination activities.

54 Hakim, "Perjanjian Keamanan Indonesia-Australia: Upaya Indonesia Untuk Mencegah Gerakan Separatisme Di Indonesia Timur."

55 Hakim M.Fathoni, "No Title" (Universitas Indonesia, 2010), 29.

56 Hakim M.Fathoni, "No Title."

- 1) Armed attack against participants of "Sumpah Prasetya" Flag Ceremony in Manokwari on July 26, 1965
- 2) The attack of OPM led by Joseph Indey to the Kompi III 314 Siliwangi post on March 4, 1968
- 3) Mid-1968, OPM attack ABRI (former name of TNI) posts in Korem and other posts in the area of North Biak and raised OPM flags in the mountains and forests as the headquarters of OPM
- 4) Attacks on government posts, Christian Churches of the Gospel, ABRI post, closed the Makki and Petriver airports by OPM in Jayawijaya in 1977-1978.
- 5) The raising of the OPM flag led by Maria Jakadewa at the Governor's office of Irian Jaya and OPM made a petition about the protests of the Act of Free Choice 1969, a statement of support for the independence of West Papua, and an appeal to the Indonesian government to recognize West Papua's independence.
- 6) OPM attack on Makbon post
- 7) Statement of independence of the Western Melanesian Republic by Thomas Wanggai at Mandala Stadium Jayapura on 14 December 1988

The Indonesian government during the Orde Baru era did a military approach in dealing with OPM. This was a form of state sovereignty enforcement action, therefore any movement that leads to separatism or sovereignty threats must be eradicated.⁵⁷ The question that always arises up to now is the OPM status based on international law and national law. There are many distinct opinions between the Indonesian government⁵⁸ as well as some other countries⁵⁹ in addressing the problems in Papua related to separatism. Andrew Clapham provides the boundary between insurgency, and belligerency⁶⁰: *International law originally only considered rebels as having international rights and obligations from the time they graduate to insurgency. Traditionally, insurgents were considered to have international rights and obligations with regard to those states that recognized them as having such a status* Based on these opinions it is known that the rebellion has several stages and can be said to have a human right under international law when it began to rebel.

⁵⁷ Ikbal, "Kedudukan Organisasi Papua Merdeka (OPM) Dalam Perspektif Hukum Humaniter Internasional."

⁵⁸ The Indonesian government is of the opinion that the integration of Papua into the Republic of Indonesia is legitimate based on International Law, as something that must be maintained based on mutual feelings and brotherhood. The OPM is a separatist trying to interfere the integration of Papua into Indonesia May 1, 1963 and PEPERA 1969. The problems in Papua are tried to be solved by the government of Indonesia by many ways as first, the government is currently accelerating infrastructure development and other development including education and health as one solution to the problems of Papua; second, the government has a commitment to resolve injustice in Papua including alleged human rights violations by forming an Integrative Team under the Ministry of Politics, Law and Security by involving KOMNASHAM; third, the government has lifted restrictions for foreign journalists to visit Papua with evidence of the arrival of 39 foreign journalists to Papua, which represents an increase of around 41 %; fourth, the establishment of the Papua Special Autonomy region to improve effective local governance and development. It was also stated that "within the framework of Special Autonomy, the provinces of Papua and West Papua receive the largest budget, compared to other provinces, namely 69.71 trillion rupiah, equivalent to 2.5 billion US dollars. Dua Persepsi Terhadap OPM Antara Papua dan Indonesia, Frans Takimai, "Dua Persepsi Terhadap OPM Antara Papua Dan Indonesia," Kompasiana, 2012.

⁵⁹ The Papuan people believe that Papua has liberated on 1 December 1961, called the Independence Day of the Papuan People, by establishing Papoea Virjiligers Korp (PVK) or the Free Papua Organization (Organisasi Papua Merdeka, OPM). The integration of Papua into Indonesia according to the people of Papua is the annexation day of the Papuan people into the Republic of Indonesia (Negara Kesatuan Republik Indonesia, NKRI) or in other words: black day or dark day. The majority of Papuans still feel unequal and not united with Indonesia, because some actions taken by the government against Papua indicate human rights violations in Papua. Currently there is a group called the Pacific Coalition for West Papua (PCWP) whose members are Vanuatu, Tonga, Palau, Tuvalu, Marshall Islands, Nauru and Solomon Islands urging the UN Human Rights Council to investigate alleged human rights violations in Papua. However, at present the issue has shifted to be the issue of self-determination and colonial independence (decolonization). "7 Negara Pasifik Desak PBB Selidiki Pelanggaran HAM Di Papua," n.d. NKRI "Babak Baru Persoalan Papua Di PBB," n.d. "Dua Persepsi Terhadap OPM Antara Papua Dan Indonesia," n.d.

⁶⁰ Clapham, "Human Rights Obligations of Non-State Actors in Conflict Situations."

To determine whether the OPM status is merely a rebel, insurgent or perhaps belligerent is something that needs to be explained. The rebels are simply the opposing groups but can easily be overcome by the security forces of the legitimate government. If the resistance is widespread and incremental then the group may be classified as insurgent or possibly belligerent. But there are some limitations of a group so can be said as insurgency as Clapham said that: *traditionally, insurgents were considered to have international rights and obligations with regard to those states that recognized them as having such a status.*⁶¹

If insurgent is not only recognized as an insurgent, but also as a belligerent by the combating State then it is no longer a non-state actor, but its status assimilated to be of a state. It means that all rights and duties are attached to it under international law as defined by Andrew Clapham as follows: *Under this traditional international law, insurgents who were recognized by the state against which they were fighting not only as insurgents but also expressly as belligerents, became assimilated to a state actor with all the attendant rights and obligations which flow from the laws of international armed conflict.*⁶²

2.4 OPM: How It Become An Organization

There are several aspects underlying the establishment of the OPM. Researchers noted at least there are five aspects that form the basis of the formation of OPM. First, the political aspect. During the Dutch colonial government, promised to the people of Papua to establish a (puppet) state Papua apart from Republic of Indonesia. Some pro-Dutch regional leaders expect to get a good position in the Papuan state. Disappointment began to emerge due to the Dutch government's repudiation of its promise, by handing Papua into Indonesia through New York Agreement 1962.

Second, the economic aspect. In the early 1964, the Indonesian economy was very bad and gives a big influence to Papua. The distribution of food and clothing needs to Papua was stalled and often late. As a result, Irian Jaya (the former name of Papua) at that time experienced food shortages and clothing. This situation has never been experienced by the people of Irian Jaya during the Dutch colonial rule. Third, the psychological aspect. The level of human resources of the people of Irian Jaya at that time was very low, even the majority of people in the remote part of Irian Jaya never knew education, so they lack of critical thinking. This caused them to be easily influenced by emotions rather than critical thinking when facing a problem. The lack of education also brought the image that people of Papua never being entangled to determine their own course of life. The government had determined anything for them. When the level of education increases, some of them feel partly noticed or even abandoned by the government. It is widely known that people's opinion are important for government decision-making⁶³, however, the level of education also plays important role.

Fourth, social aspect. Indonesia has once experienced colonialism by the Dutch who spread its authority and corporation through South East Asia.⁶⁴ During the Dutch colonialism period, local government officials in Irian Jaya were generally appointed from among the chiefs. If they rebel, then they have the support and influence of their tribe, and the fifth, ideological aspect. The people of Irian Jaya believe in the myth and belief of a great leader as Ratu Adil who is able to bring his people to a better or prosperous life.

61 *Id.* at 492 Furthermore, the acknowledgement from other country in this case may be difficult because of political and sovereignty factors .

62 *Id.* at 492.

63 Huong Thi Lan Phan, "Public Participation in Decision-Making Towards Accountable and Transparent Governance in Vietnam," *Jambe Law Journal* 4, no. 2 (2021): 111–30.

64 Lu Sudirman et al., "International Laws and The Reality: The Complexity of Corporate Law in Empowering Human Rights," *Jambura Law Review* 6, no. 1 (2024): 1–32.

Based on the above description, it can be concluded that the OPM rebellious movement occurred because of dissatisfaction with the situation, the disappointment that has grown into an awareness of Irian Jaya nationalism.

2.5 The Claim Of Self-Determination By The OPM

Right of self-determination according to the perspective of International Law is the right to self-determination to undergo change and development over time,^{65,66}. The notion of self-determination emerged after World War I by then President of the United States, Woodrow Wilson. This idea has faced many challenges because it was possible that there will be many races and ethnicities which then liberate themselves and form their respective countries.^{67, 68} Various opinions debated the explanation of the right to self-determination in the UN Charter. Some mentioned that the definition of self-determination in the Charter of the United Nations is not legally binding, so it is better understood as a political view rather than a specific and binding norm.

Article 1 paragraph (2) of the UN Charter regulates self-determination as follows:... *"to develop friendly relations among nations based on respect for the principles of equal rights and self determination"*. Furthermore, the provision of self-determination is in Article 55 of the Charter of the United Nations as follows:... *"to creation of stability and well being which are necessary to peaceful and friendly relations among nations based on respect for the principles of equal rights and self determinations of peoples..."*. The provision of the article can be concluded that the right to self-determination is the right of every society / individual to create an orderly situation and prosperity as the basis for the creation of peace and the relationship between the state.

The UN Charter also provides for other articles relating to self-determination in Article 73 which provides that the obligation of a ruling state over an undeveloped territory to develop it towards self-government and the right of self-governing territories to govern itself. Article 76 of The Charter also regulates self-determination, namely the provision of the right of areas placed under the guardianship to obtain self-government.⁶⁹

The regulation above somewhat changed in UN General Assembly Resolution 1514 of 1960 which links the right of self-determination to "freedom to build social, political, and economic life". Joshua Costellino also agreed that Resolution 1514 relates to better living standards and greater freedom.⁷⁰ Self-determination also regulated in Article 1 paragraph (1) *The International Covenant on Civil and Political Rights (ICCPR) and The International Covenant on Economic, Social, and Cultural Rights (ICESCR)* which provide that *"all people have the right of self-determination, by virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development."*

Although self-determination is regulated in various United Nations regulations, but there is one thing that still debates the qualification of "all peoples". Sefriani explains that if "all people" are interpreted as "everyone," it is feared that a minority national group will demand right-to-self-determination and strongly contradicts one of the

65 Sefriani, "Separatisme Dalam Perspektif Hukum Internasional: Studi Kasus Organisasi Papua Merdeka."

66 Burak Cop and Dogan Eymirlioglu, "The Right of Self-Determination in International Law Towards THE 40th ANNIVERSARY OF THE ADOPTION OF ICCPR AND ICESCR," *Perceptions: Journal of International Affairs*, no. Llm (2005): 115-46.

67 Sefriani, "Separatisme Dalam Perspektif Hukum Internasional: Studi Kasus Organisasi Papua Merdeka."

68 Deborah Z Cass, "Rethinking Self-Determination: A Critical Analysis of Current International Law Theories," *Traversing the Divide: Honouring Deborah Cass's Contributions to Public and International Law* 18 (2021): 157-78, <https://doi.org/10.22459/td.2021.11>.

69 Article 73 and 76 of UN Charter has ruled that self-determination related to colonial situation, and given to region or area to fight the colonial government.

70 Eymirlioglu, "The Right of Self-Determination in International Law Towards THE 40th ANNIVERSARY OF THE ADOPTION OF ICCPR AND ICESCR."

UN's principles of maintaining territorial integrity from member countries.⁷¹ So the translation and interpretation of "all peoples" must be in the context of the colonial era and cannot be used in the context of groups who are dissatisfied with their government.

In the era of the United Nations, the right to self-determination developed along with many occurring events throughout the world. The right of self-determination is believed to be crucial in facing the challenge of colonial domination, especially of racism or discrimination based on skin color. With the right to self-determination, the opportunity for a particular race or group within a country to separate itself and to build its own government is widely open. However, it is argued in the content of the Declaration on Principles of International Law concerning Friendly Relations that the existence of the right of self-determination never intends to encourage members of a state to separate itself without the problems of colonialism, foreign occupation, or racist administration. This is done in order to avoid the breakup of the state due to the many breakaway groups.⁷² The Nagorno-Karabakh issue may be one of the examples, while the people of Nagorno-Karabakh believe that they are subject to exercising their right of self-determination by seceding from Azerbaijan. By doing so, they claim that they are protecting their people, as well as the history they hold.⁷³

In the case of Papua's issue with the OPM as its actor, the right to self-determination that they fought for concerned the rising awareness of Irian Jaya nationalism that was rooted in the dissatisfaction with their current condition. The people of Papua think that they could be more wealthy or prosperous based on their beliefs. The government of Indonesia believes that a constructive yet rapid development of Papua is needed. To support the development of Papua, a stability and security of the people and environment are ultimately needed. There are many examples as proof that security and political stability assure the protection of people's rights and can bring prosperity. In Ukraine, as an example, the regime of martial law hardly provided the people with full freedom and restricted the citizens' rights in order to ensure the country's security and defense. Albeit the obligation of the government to ensure people's socio-economic needs are maintained, the restrictions will still be obstacles in obtaining the ultimate welfare for the people.⁷⁴ Thus, the problems concerning OPM need to be solved immediately.

With regards to the status of the OPM to be none of insurgent, belligerent, or liberation movement, thus it is not the subject of international law. The consequences coming from this reality is that the national law becomes the appropriate tools to overcome its disturbances. There are many options among others, diplomacy and military repressive action. The government of Indonesia has carried out several attempts, such as territorial coaching by the Indonesian Army, straighten out the negative issues spread by the OPM, and diplomatic attempts⁷⁵. The government of Indonesia has also issued a regulation regarding the special autonomy for Papua. The regulation issued was intended to provide a special authority, especially for the Papua people, as the subject as well as the object of

71 Sefriani, "Separatisme Dalam Perspektif Hukum Internasional: Studi Kasus Organisasi Papua Merdeka."

72 Frederic L. Kirgis Jr., "The Degrees of Self-Determination in the United Nations Era," *American Journal of International Law* 2, no. 88 (1994): 304–10.

73 I Gusti Ayu Khanaya Manohara, I Made Budi Arsika, and I Made Sena Darmasetiyawan, "Juxtaposing The Territorial Integrity and Self-Determination Principles in Nagorno-Karabakh Dispute," *Jambura Law Review* 5, no. 1 (2023): 38–59.

74 Pavlo Liutikov et al., "Human Rights And Freedoms Under The Conditions of Martial State: Legal Regulation, Directions of Improvement," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 3 (2023): 623–33.

75 Gia Noor Syah Putra, Tri Legionosuko, and Adnan Madjid, "Strategi Pemerintah Indonesia Terhadap Negara-Negara Anggota Melanesian Spearhead Group (MSG) Dalam Menghadapi Propaganda Organisasi Papua Merdeka (OPM): Studi Kasus Negara Republik Vanuatu," *Peperangan Asimetris (PA)* 5, no. 2 (2019).

the development of Papua. The government of Indonesia struggled to uplift the dignity of the Papua people, together with a wider opportunity for them⁷⁶.

However, the efforts seemed to be ineffective reflected from how this problem still exists and interferes with daily life of people as well as political stability and security of the people. Security and political stability are among others prerequisites to have a sustainable development of Papua, which has been started quite a long time ago. A harmonious life between the Papua people and those who come and settle in Papua has also been witnessed. Even people with different religion and culture can live side by side with the Papua people, in some certain parts of Papua⁷⁷. Thus, it could not be denied that the development of people and infrastructure in Papua was disturbed by the action of OPM which brought an enormous disadvantages to the people of Papua.

3. CONCLUSION

The study concludes that the OPM, despite its historical context and activities, does not meet the criteria under international law to be classified as a national liberation movement or belligerent entity. Instead, OPM is regarded as a domestic insurgency subject to Indonesian national law. The study analyzes the concepts of insurgency, hostility, and liberation movements in international humanitarian law, emphasizing that recognition plays a critical role in determining the status of such groups. For OPM to qualify as a belligerent under international law, it must fulfil specific requirements, such as controlling territory, being recognized by other states, and adhering to international obligations. Since OPM lacks these criteria, its status remains that of an insurgent movement without the rights and privileges of a state or belligerent entity. The paper underscores the importance of addressing the underlying social, economic, and political issues fueling the conflict for a sustainable resolution.

The Indonesian government should address the underlying socio-economic issues in Papua, such as marginalization, limited access to education, and economic disparities, which fuel dissatisfaction and separatist sentiments. Legal Clarity on Self-Determination also requires to be made to clarify the applicability of self-determination under international law to avoid misinterpretations that may fuel separatist agendas, as well as encourage greater autonomy and representation of Papuans in governance, ensuring that local ethnic groups have substantial influence over the region's political and economic development.

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⁷⁶ Jauhar Nashrullah and Georges Olemanu Lohalo, “The Establishment of a New Autonomous Region of Papua in State Administrative Law Perspective,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2022, 145–59.

⁷⁷ Hasse Jubba et al., “Compromise of Islam and Customary Practices in the Religious Practices of the Muslim Community in Papua: A Study of Maqāṣid Syarī’ah,” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (2024): 305–30.

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