

5-18-2018

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Recommended Citation

KATHARINA, RIRIS (2018) "Deliberative Formulation of Papua Special Autonomy Policy," *BISNIS & BIROKRASI: Jurnal Ilmu Administrasi dan Organisasi*: Vol. 24 : No. 2 , Article 2.

DOI: 10.20476/jbb.v24i2.9492

Available at: <https://scholarhub.ui.ac.id/jbb/vol24/iss2/2>

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Deliberative Formulation of Papua Special Autonomy Policy

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Abstract. Formulation of Special Autonomy Policy (Otsus) of Papua is a unique process, since it was mandated by MPR Decree to be carried out in a participatory manner with a strict time limit. In its development, Otsus policy has not been able to resolve the conflict in Papua. This paper aims to analyse the formulation of Papua's Special Autonomy policy as outlined in Law No. 21/2001 based on deliberative public policy theories. This paper uses a qualitative approach with a case study, for which in-depth interviews were conducted with actors directly involved in policy discussions. The results show that the formulation of Papua Otsus has been made without involving Papuan people participation. The Assessment Team that drafted the autonomy law bill have failed to applied deliberative approach but a pseudo-participation. Subsequently, DPR did not provide the appropriate deliberative rooms for the discussions of the draft law.

Keywords: deliberative policy making, policy formulation, special autonomy, Papua

Abstrak. Formulasi Kebijakan Otonomi Khusus (Otsus) Papua merupakan sebuah proses yang unik, karena pembentukannya diperintahkan oleh MPR untuk dilakukan secara partisipatif dengan waktu yang sangat terbatas. Dalam perkembangannya, kebijakan Otsus Papua belum mampu mengatasi konflik di Papua. Tulisan ini bertujuan menganalisis formulasi kebijakan Otsus Papua yang dituangkan dalam Undang-Undang Nomor 21 Tahun 2001, berdasarkan deliberative public policy. Tulisan ini menggunakan pendekatan kualitatif, dengan wawancara secara mendalam dengan aktor yang terlibat langsung dalam pembahasan kebijakan. Hasil penelitian memperlihatkan formulasi kebijakan Otsus Papua dibuat tanpa melibatkan partisipasi masyarakat Papua. Tim Pengkaji yang menyusun naskah rancangan undang-undang Otsus Papua mencoba melakukan pendekatan deliberatif, namun menghasilkan pseudo-participation. DPR tidak menyediakan ruang deliberatif dalam pembahasan rancangan undang-undang.

Kata kunci: pembuatan kebijakan deliberatif, formulasi kebijakan, otonomi khusus, Papua

INTRODUCTION

In Indonesia, the 1998 reform movement has succeeded in encouraging state institutions to open their space for public participation in policy formulation. MPR, in its 2000 Annual General Assembly, has seen the importance of changing state administration model democratically by involving public participation. One example of the policies is MPR Decree (TAP) No. IV of 2000 on Policy Recommendation in the Implementation of Regional Autonomy. In the TAP, it is recommended that the Law (UU) on Papua Otsus, as an effort to resolve the conflict is formulated in a participatory manner by taking into account Papuan People's participation. DPR, which at that time hierarchically is under MPR, is obliged to implement these provisions.

Policy formulation involving people's participation is one of the prerequisites for the deliberative approach process. The policy making, in line with Habermas's notion on communicative society (Hardiman, 1993), and Dryzek (Blau, 2011: 37), who oppose the formation of public policy by the political elites and proposes a deliberative policy-making. With the assumption that society has become more rational in voicing their opinion, therefore, every individual in society must be informed on every collective decision that to be decided, which would show their acceptance, and they becomes

part of every decision subject (Dryzek, 2000: 11).

Dryzek also argues that the development of deliberative democratic theory demands changes in public policy making. Experts who are in line with his thoughts include Peter deLeon, Danielle M. Varda, Hajer & Wagenaar (deLeon & Varda, 2009). This idea takes into account criteria of the democratic deliberative process, i.e. influence, inclusion, and deliberation

Post-Suharto Indonesia, in fact, still shows contradictory situation. As the condition of the Indonesian people shows its dynamic, it seems that the concept of Habermas' communicative society meets its relevance. The society demands sharing of information as wide as possible on various dimensions of society, regarding political, social, legal, or economic matters.

Post-Soeharto situation demonstrates a great desire to make changes in Indonesia's policy making, from elitist to deliberative, by trying to involve people's participation. One of the goals of deliberative policy making is to resolve conflicts among various interests (Kraft & Furlong, 2013: 518). Deliberative policy making focuses on forums that bring people with diverse perspectives together to influence each other on policy proposals and negotiations (Dodge, 2014: 162). This means that the deliberative approach is best used in conflict situations and involves many parties.

The situation of Papua from 1999 to 2000 was

marked sharper conflict between the central government and the people of Papua with the presence of demands of Papua independence from the Indonesian Unitary State or NKRI (Nainggolan, 2012: 97-98). The demands of independence came due to various reasons, mainly, the controversial integration of Papua into NKRI, unfulfilled ability to achieve prosperity; marginalization of the Papuans, and unfulfilled respect of human rights (Elisabeth, 2005: 42-43; Widjojo, 2009: 6-7).

Conflicting actors in Papua were complex, involving actors in central and provincial government and parliament, pro-autonomy, pro-independence, doubters, NGOs churches, and tribes leaders. With the large number of actors involved, it is considered important to hear their voices to generate trust and empathy as a condition for conflict resolution. Without trust, each party no longer believes what the other party says, nor believes in the commitment and action offered (Deutsch, 2000).

The Otsus policy, which is claimed as has been formulated deliberatively seems to be less successful in addressing the conflict in Papua (Nainggolan, 2012: 305-309). This is shown by the still sounding demands of independence consistently stated by United Liberation Movement for West Papua (ULMWP), a unification of Federal State of West Papua (NRFPP), West Papua National Coalition for Liberation (WPNCCL), and National Parliament of West Papua (PNWP).

On 12 August 2005, the Papuan Traditional Council (DAP) gave instructions to the existing Customary Council to return Otsus to the Papuan Regional Representative Council (DPRD). This decision was part of the follow up of the third Indigenous Council Assembly in Manokwari on 31 January-4 February 2005, which gave a time limit for the realization of Otsus until 15 August 2005. If by that date there was no significant change in Papua, then Otsus would be returned.

Further, Papuan People's Assembly (MRP) deliberations with Papuan indigenous people, which were represented by 7 major tribes on 9-10 June 2010 concluded that Law No. 21/2001 on Special Autonomy for Papua Province for 9 years has failed. Therefore, they have issued 11 points of recommendation, among others, demanded a referendum towards Papua's independence as a separate state from the NKRI; sending back the Special Autonomy Law to the central government; and demanding a further discussion mediated by a neutral international party.

The reasons for sending back Otsus varied. First, Otsus was granted by the central government, not as a result of negotiations between the people of Papua and the central government (Nainggolan, 2012: 304-305). Second, Otsus is not implemented seriously. Third, Otsus is like a toothless tiger, stagnant, because there are no provincial regulations (Perdasi) and special regional regulations (Perdasus) (Elisabeth, 2005).

Other researches said that the implementation of the Papua autonomy policy is still problematic. Musa'ad

(2011) indicated that the implementation of the policy has not been able to be effectively implemented. Directorate General of Regional Autonomy (2014) in its evaluation concluded that the acceleration of development to improve the welfare of the people has not been achieved.

Unlike the results of research conducted by O'Flynn, Dryzek, and Fishkin which proves the successful use of a deliberative approach in resolving national identity conflicts (He, 2010: 709-739), the conflict in Papua continues until present day because of its inconsistent implementation. This means that what has been practiced in Papua for the time-being is merely a pseudo-deliberation. The great desire to present the deliberative process of policy formulation to stop the conflict in Papua has not shown satisfactory results. This study aims to analyze deliberative policy-making practiced by DPR in the case of Otsus Papua.

RESEARCH METHOD

This research uses a qualitative approach, which is chosen to be able to reveal all deliberative practices conducted since the emergence of the idea of Otsus Papua in MPR until it was decided to become a national policy by DPR and the government in the form of Law. Series of work starts from determining the case to be studied. Problems were identified from literature studies, applying relevant theories and both published and unpublished research results, in addition to obtained information from mass- and online media. Next, the core stage of the research is conducting with data excavation directly, through in-depth interview techniques with various sources.

The sources consisted of the Pansus (Special Committee) Chairperson of the Bill on Otsus Papua, Sabam Sirait; Papuan Special Committee member, Simon Patrice Morin; Special Committee Member of PDI-P, Tumbu Saraswati; DPR expert, Nicolas Simanjuntak; former Director General of PUOD, Sudarsono, and expert staff of the Minister of Home Affairs, Sodjuangan Situmorang. These were the parties directly involved in the deliberation process of the Papuan Autonomy Bill in DPR.

The research sources covered also native Papuan, who are scholars from the University of Cenderawasih. i.e. Mohammad Musa'ad; religious figure, Karl Philip Erari; and leader of NGO FOKER, Abner. Other sources involved were figures representing the Papuan Presidium or the pro-independence group, Thaha Al-Hamid, church communities, Rev. Sofyan Yoman Socrates; and scholars, Neles Tebay.

Data is also obtained from literature studies, the results of previous research, reports of the preparation of the law, as well as various regulations and expert opinions. The final stage is conducted by analyzing data and writing reports. The findings in the field are arranged according to categories prepared based on theory and references. Furthermore, data and information obtained are analyzed based on the theory used. Next, the conclusions are drawn.

RESULT AND DISCUSSION

The Otsus policy arose from the completion of the problem resolution in Irian Jaya based on the TAP MPR No. IV/1999 on the Guidelines of the State Policy (GBHN) of 1999-2004. It was mentioned there that the MPR will keep the NKRI while respecting diversity of social and cultural life of the Irian Jaya people, through the establishment of special autonomous regions regulated by law. The MPR will also resolve cases of human rights violations in the province through an honest and dignified court process.

The order was resulted by the conditions as one hundred Papuan figures were invited by President B.J Habibie to the National Palace on 26 February 1999 to discuss the situation in Papua which was increasingly volatile. The dialogue that was originally expected to run smoothly found disappointment when they demanded President Habibie to give independence for Papua (Widjojo, 2009: 157). President Habibie, however, suggested that they returned and contemplated the request.

Habibie's attitude led to the disappointment of the one hundred Papuan figures. They then held the Second Papuan People's Congress in Jayapura in May-June 2000 as well as forming a Papuan Presidium or PDP (Chauvel & Bhakti, 2004: 27). PDP became new elite in Papua supporting the independence movement for Papua.

The solution to resolve the conflict in Papua through Otsus solution comes from the Papuan elites in MPR. Its proposal was prepared quickly and very hastily, on the grounds that the situation in Irian Jaya was very apprehensive, and very urgent to be resolved. Some Papuan figures in MPR, such as Simon Patrice Morin and Jaap Solossa, both from Golkar played an important role in the entry of the provisions concerning Otsus into TAP MPR (Solossa, 2005: 26).

They garnered support from other MPR members from Papua, among others, by Ruben Gobay, Alex Hesegem, Lukas Karl Degey, Lukas Sabarofak, Marthina Mehue Wally, and Sulaeman L. Hamzah. Other members of the Golkar Faction, such as Ariady Achmad, Rambe Kamarulzaman, Ruben Gobay, and S.M. Tampubolon alternately voiced that for Irian Jaya to be given attention.

From the minutes of the discussions of TAP MPR No. IV/1999 on GBHN, it is known that the proposed grant of Otsus status for Irian Jaya is not from Commission A discussing the draft provisions on GBHN, but derived from Commission B which discusses the draft provisions on non-GBHN material. In fact, the material on Otsus Irian Jaya is included in the TAP MPR about GBHN.

The Otsus solution was offered because MPR members from Aceh also proposed the same thing, namely Otsus for Aceh. In order for the echo to sound stronger, MPR members of Papua from Golkar, offered themselves to MPR members from Aceh to fight for the Aceh and Irian Jaya issues together. This proposal was responded well.

The minutes mentioned that MPR members

from Irian Jaya offered a concept to Commission B containing 4 main points to be included as a draft TAP MPR, namely on human rights violations; development that has not touched the local people; indigenous Papuan who deprived from their traditional rights and cultural distinctives; development which was designed from the center, never considered the varying degrees of advancement ranging from koteka era society groups to relatively advanced ones.

These facts have been delivered by 100 representatives of Irian Jaya people directly to President Habibie on 26 February 1999 at the National Palace, and they requested that a peaceful secession be given as a means of ending the suffering. In response to the request, MPR members from Irian Jaya proposed that region be granted Special Autonomy as the best solution to allow the local government and Irian Jaya people to establish themselves in accordance with their particular cultural and special conditions.

Following the enactment of an order to grant Otsus to Papua in the TAP MPR in 1999, Papua Special Autonomy Law has not been drafted by either the government or DPR. Responding to that, in its Annual General Assembly on 7-18 August, 2000, MPR reminded President Gus Dur to give serious attention and be firm against all forms of separatist movements that threaten NKRI and accelerate the implementation of Otsus in the province.

Reflecting that until end of 2000, the Special Autonomy Law was not yet formed for Irian Jaya, in its Annual General Assembly, MPR decided to impose time limit on the formation of the Special Autonomy Law, which was no later than 1 May 2001. Constitutionally, the MPR recommendation should be responded by DPR because since the First Amendments in 2000, the power to form a law according to Article 20 is in its hands, not the President. The reason for the not-drafting of the Bill by DPR was because DPR was given a number of Bills that must be passed immediately, which all are "the orders" of the International Monetary Fund.

The government, on the contrary, responded to the TAP MPR by immediately drafting the Bill on Special District Government in Irian Jaya and submitted it to DPR. The Bill was signed by President Gus Dur on 14 March 2001 and read in DPR Plenary meeting on 20 March 2001. At DPR Bamus (Steering Committee) Meeting on 28 March 2001, it was agreed that the Bill from the government would be scheduled to enter the Stage I Talks on 1 May 2001.

However, not long after, at the Plenary Meeting on 25 April 2001, it was announced that there was the Bill on Special Autonomy for the Irian Jaya Province in the form of Self-Governing Territories from Governor and DPRD received by DPR. This is an unprecedented event, where the Bill comes from parties outside DPR and the President. To be able to accommodate the Bill version of the Irian Jaya government, in the Plenary Meeting of 3 May 2001, it was announced about the acceptance of a proposal from 60 (sixty) members of DPR, namely the Proposed Initiative Bill on Special Autonomy for Papua Province in the Form of Self-Governing Territory.

How the Governor and Provincial DPRD of Irian

Jaya could draft the Papua Special Autonomy Bill can be explained as follows. Irian Jaya Governor at that time, Jaap Solossa (23 November 2000-23 November 2005-December 19, 2005), which at the time TAP MPR No. IV/1999 and 2000 was established, is a member of MPR, took the initiative to draft the Bill. He argued that the people that understood Papua were Papuans themselves. Therefore, it was fitting for the Papuan people to draft the Papuan Otsus Bill. Jaap Solossa's opinion is evident when he saw the draft of the government version of the Bill submitted to DPR, many of which are inconsistent with the draft law drafted by the Provincial Government of Papua. Examples may include the lack of specificity from the political side, such as presenting MRP and the specificity in the drafting of local regulations, both in provincial (Perdasi) and special regulations (Perdasus). According to Sudarsono, the difference on the non-government's version of the draft was only political legislation --liberately made in high call (high demands) to be able to reach a deal in the middle.

At the time Solossa wanted to draft the Bill, the condition in Papua has already lost their trust towards the central government, even the regional government and Provincial DPRD. In fact, the Special Committee formed by the Provincial DPRD to draft the Bill on Otsus Papua cannot perform its duty. People only believe in religious and cultural leaders. In late December 2000, Jaap Solossa opened discussions with prominent Papuan figures, such as Speaker of the Provincial DPRD, Nathaniel Kaiway, Rector of Cendrawasih University, Frans Wospakrik, State Minister for the Acceleration of Development of East Indonesia, Manuel Kaisiepo, and

other native Papuan politicians, intellectuals and church leaders.

Based on this talk, Jaap Solossa finally took the initiative to form an integrated team based on the Governor's Decree, to start and draft the Bill by accommodating the thoughts of the Papuan people. The team is called the Assessment Team. The Chairperson of the Team stated before the DPR Special Committee that his Team is only a small part of all Papuans who were trusted by the local government and society to help accommodate their aspirations and then formulate it into the Bill. Therefore, the Team was expected to be able to bridge between the national interests to guard the Republic of Indonesia through the formulation of Otsus and the distrust of the Papuan people towards the policy makers, at the central and in the region.

In relation to the involvement of local government, the Assessment Team stated that the local government in this process only acts as a facilitator without being directly involved in the process of collecting people's aspirations. It is intended that the Papuan people are given the opportunity to express their aspirations openly without fear by the local government (Secretariat General of DPR, 2002: 1.310). However, the fact shows that one of the members of the Team is also a member of the Provincial DPRD Irian Jaya (H. Wanggomer). Yusak Andato even told that local government officials are always present and active in every activity in the process of discussion of the Bill. Furthermore, the Assessment Team performs its work with the activity stage as illustrated in Figure 1.

At the beginning of the work, the Assessment Team

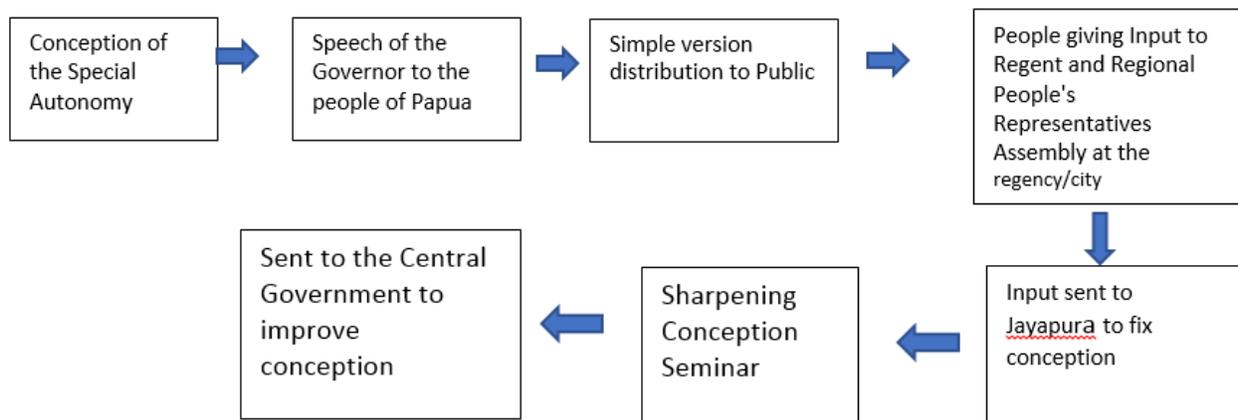


Figure 1. Working Stages of the Papua Autonomy Assessment Team

Source: Sumule (2003:358).

undertook the collection of materials to be used in the initial draft of the Bill. According to the report of the Team, the materials are derived from the raw concept compiled by the Provincial Government of Irian Jaya and DPRD, FOKER, the Papua Work Forum from Cendrawasih University, Papua University in Manokwari, and the results of the Second Papuan Congress attended by PDP, religious groups, and intellectual figures (Secretariat General of DPR, 2002). The FOKER staff interviewed stated that there was indeed a draft Otsus Bill drafted by them, but not

accommodated in the draft version of the Team.

The church figure, Socrates, stated that there is no concept of Otsus organized by the church. Thaha Al-Hamid from PDP even stated that since the beginning the PDP has never agreed with Otsus, so there is no concept of Otsus owned by PDP. There is an impression that the Team is pressed by time, resulting the process of involving the people in drafting the Bill was not maximally implemented. From the beginning, Theo van der Brock, a pastor in Papua, has stressed the importance of providing enough time for people to

consider the idea of Otsus.

After the initial concept has been formulated, the Assessment Team then prepared the speech of the Governor of Papua. The content of the speech stirred the people in Papua to understand what the mandate TAP MPR is. The Team also prepared a document on the rights and obligations of the Papuan people. Furthermore, the Team went to all districts and cities in Irian Jaya Province to capture the aspirations of all components of the community (local government, DPRD, cultural and religious institutions, women and youth groups), and from those whose aspirations are independent and rejected Otsus, e.g. groups of scholars. The Team claimed to have involved parties who wanted independence and did not want Otsus in every discussions of the Bill. Sumule recounted that it was originally designed for the people to participate by providing input to the draft Bill. However, it was decided that instead of waiting for people to include their suggestions, a number of small teams were formed and sent to every district capital (Sumule, 2003: 26).

From the aspiration screening activity, academic paper was formulated and subsequently developed into the main ideas. The next stage is drafting the Bill. The draft Bill was discussed with various circles in the cities of Jayapura and Jakarta. In Jakarta, the Assistance Team reported that they involved members of DPR from Papua's electoral districts as well as Papuan students and communities outside Irian Jaya were involved in several meetings in Jakarta. During the drafting of the Bill and the main points, the Team also conducted activities, among others, invited various experts and professional associations, and met with the leaders of 10 factions in DPR.

Following the initial draft, a Special Autonomy Bill Review Forum was held on 27-29 March 2001. August Kafiari described the atmosphere at the opening of the review forum in Jayapura on 27 March 2001 through a video showing played in DPR Special Committee meeting. The description of the situation of opening the study forum, is as follows;

"... after it was inaugurated by the Governor, Barnabas Suebu as a representative of our Team will deliver the exposure on what is meant by special autonomy. When the Chairperson of the Assembly, Simon Patrice Morin, has not started yet again to present the content of the Bill, the people, all delegates from all districts, spontaneously came forward screaming and thwarting. Later, Simon Patrice Morin as has been seen on the full showing screamed and his voice is lost amidst the screams of people who do not want any special autonomy. Finally, it almost failed to be suspended and we had to do a hard lobbying. And then some would want to start on the afternoon and would like to continue the next day understand what is meant by some, but some districts is not willing and did not attend." (Secretariat General of DPR, 2001: 145)

This activity is claimed by the Assessment Team to be attended by all components of the region because the participants are representatives of all components that exist throughout Irian, including from the Papuan Presidium Council (PDP), which lead the Papuan

Congress. However, this claim was denied by former Chairperson of BEM Cendrawasih University Yusak Andato, Socrates (from the church), and Thaha Al-Hamid (PDP). Indeed, the Papuan Traditional Council (DAP), as one of the most representative Papuan societies, has never felt acceptance towards Otsus (Elisabeth, 2005: 122). In a meeting in Manokwari District, it was read by the Manokwari District Council of Papuans that: firstly, they rejected all forms of autonomy determined by the other party. Second, Otsus can be discussed as long as the idea of "T" is also discussed. They further demanded that the discussion on Otsus be stopped. Some of the audience also demanded the same thing. The situation turned into a mess, however, the discussion continues. The people, according to Sumule, are still willing to accept and read the documents distributed (Sumule, 2003: 26).

According to Socrates (interviewed on 1 February 2016), most Papuans at that time disagreed Otsus. However, there are some who hope that what is promised in the Otsus draft, which is to build Papua, be materialized. Thaha (interviewed on 12 March 2016) recounted that the Assessment Team went to the PDP leaders in prison to inquire about Otsus. However, They said that they disagreed with it. Although they did not support Otsus, the PDP did not forbid the Team to draft the Special Autonomy Bill. Father Neles Tebay (interviewed on 14 June 2016) revealed that as the law was drafted the pro-independence group voices has never been heard.

Nevertheless, the Head of the Assessment Team stated that the Special Autonomy Bill was the proposal of Papua People. It was said so because the people's opinions were heard by the Assessment Team. They also claimed that public participation is also made against the pro-independence. The absorption of the aspirations of the pro-independence was repeatedly submitted by August Kafiari in hearing at DPR Special Committee. He said "... there is a red line between the initial context we prepared, and we accommodate all aspirations including those who want to be independent..."

In spite of the fact that for the Indonesian Government the history of the entry of West Irian (Papua) to Indonesia has been completed with the result of the Popular Acceptance (Pepera) passed in the UN General Assembly through Resolution No. 25-4 on 19 November 1969 (Directorate of International Organization, 1998: 1). Nevertheless, there are still parties who have not been able to accept the results of the Pepera because it assesses that there has been a deviation in the implementation.

In the perspective of deliberative policy, the policy-making process undertaken by the Assessment Team is a pseudo-deliberative process because it has decided on a policy formulation in the form of a draft Bill prior to reaching agreement from all parties to the conflict. This is marked by the wide open deliberation of the deliberation room by the Team by inviting all elements of the people in the discussion forums held in the districts. However, when the anti-Otsus refuses to discuss it, their absence is not at issue, with reasons that their opinions are being accommodated.

Importantly, the deliberation process requires the presence of a different voice to be heard and discussed together to find a solution that is mutually agreed (Saward, 2000: 66-67). In an interview with Simon Patrice Morin (interview dated 27 June 2016), he did not argue that not all parties were involved in discussing Otsus. He stated that it was difficult at that time to ask the opinion of all parties. A similar statement was expressed by Tumbu Saraswati, a member of the Special Committee from the PDI-P (Interviewed on 20 October 2016).

Based on input from the Review Forum, the draft of the Bill was revised to the 14th draft in April 2001 under the title Bill on Special Autonomy for Papua Province in the Form of Self-Governing Territory. The 14th Draft consists of 23 Chapters and 76 Articles. The draft was submitted by the Governor of Irian Jaya to the DPRD I and DPRD II, issued it as a regional product through Presidential Decree No. 3/PIM-DPRD/2001. The draft was conveyed by the Governor of Irian Jaya to the central government (President Gus Dur, Vice President Megawati Soekarnoputri, DPR speaker, and Coordinating Minister for Political, Social, and Security) on 16 April 2001.

After the draft of the Bill was submitted to DPR, the Assessment Team remained in Jakarta. During the two months since the submission of the draft to DPR, the Assessment Team saw no reaction from the central government to immediately deliberate the discussions of the Bill. No immediate response to the Bill had caused disappointment for the Team. They were worried that people would not believe in academics either. Even though, during the discussion process of Otsus in Papua, the Team assessed that the people could accept them as a communication bridge between the people and the government.

When finally DPR scheduled the discussions of the Bill, the Team requested that they could be made as an Assistance Team during the discussions which took place in DPR. The request was received by DPR Special Committee, so the Team was formally invited to Special Committee DPR to present the draft of the Bill. The Team also developed an improvement alternative as material when needed by DPR Special Committee, and further helped prepare the required Problem Inventory List (DIM)

The Bill on Special Autonomy for Papua Province in the form of Self-Governing Area, which was submitted by the Provincial Government of Papua to DPR, did not necessarily become DPR Initiative Bill. In the process of making the Bill to become DPR Proposal, DPR met obstacles because there were provisions that must be obeyed. Article 125 of the 1999 DPR Rules of Procedure stipulates that at least 10 members of DPR should submit DPR Initiative Bill.

On 15 April 2001, 70 DPR members submitted an initiative Bill to DPR Speaker with two different titles. A total of 45 members submitted the Bill on Special Autonomy for Papua Province in the form of Self-Governing Territories, and 25 members submitted a Bill on Special Autonomy for Papua Province. Both drafts of the Bills were actually the same payload, but given a

different title. One of the proposed Bill was actually a Bill drafted by the Assessment Team.

Earlier, on 14 March 2001, the President has submitted a draft Bill on the Regional Government in Irian Jaya to DPR. According to Article 114 Paragraph (1) of DPR Rules of Procedure, if there are 2 drafts of Bills on the same matter, the draft which was previously accepted will be discussed, while the later draft is then used as a complement. This means that the government version of the Bill should be discussed, while DPR Bill is being complementary.

In view of the TAP MPR mandated for the establishment of the Papua Special Autonomy Law with respect to the aspirations of the Papuan people, DPR considered the Papuan version of the draft Bill proposed by a Team from Papua to be more worthy to be discussed over the draft version of the government Bill. In the Consultation Meeting between DPR, Menkopolsoskam and Mendagri held on 13 July 2001, several agreements were made: The government and DPR agreed to immediately follow up the mandate of MPR Decree No. IV/MPR/1999 on GBHN by realizing the Law on Otsus for Irian Jaya; they agreed that the Law on Otsus for Irian Jaya would be realized through DPR Initiative Proposal, by making the draft Bill coming from the Irian Jaya people as the main reference, while the draft Bill coming from the government as a comparison; the discussions of the Bill have been agreed upon by DPR Special Committee, which would be formed after 4th Trial Session; to assign Special Committee to immediately and intensively discuss the Special Autonomy Bill for Irian Jaya including the Special Autonomy Bill for Aceh

Overall, it can be said that the process of requesting government approval to use DPR draft went through a long process. It is recorded for 5 times meeting and 3 times Consultation Meeting until finally the government with their wisdom can understand DPR desire to use the draft Bill originating from the Team which has been proposed by the governor and both DPRD of Irian Jaya.

In the Steering Committee Meeting on July 16, 2001, it was agreed that the discussions of the Bill would be conducted through a short procedure, which was handled by a Special Committee consisting 50 DPR members. The short procedure is chosen given the time limit which is approaching. With a short procedure, Bill discussions are without going through 4 stages of talks, whereas, after the first stage talks in the plenary, the third stage talks are held in a special committee to discuss the detailed substance of the Bill.

Unfortunately, Otsus itself is interpreted differently by the Assistance Team. Some view Otsus as a joint effort to build a solid, robust platform for dialogue. However, there are those who said that Otsus is a dowry that must be paid by the government to keep in NKRI.

From the statement of one of the IAGI in the 5th hearing of 26 September 2001, it was disclosed that the Assistance Team had invited IAGI in the Team meeting held in May and June 2001. A statement from the Special Committee Chairperson reaffirmed that the IAGI is close to the Assistance Team. "... I think because you are close to the Assistance Team, I suspect that you

have accepted (the draft of the Bill).”

In accordance with the established agenda, the Stage 1 discussions were held in the Plenary meeting on 27 September 2001, attended by 357 of the 483 members of DPR and the government represented by Minister Hari Sabarno. The Special Committee chairperson, Sabam Sirait (PDI-P) explained the content of the Bill. In the Stage 3 discussions, the working meeting (Raker) was held for six times and the working committee meeting (Panja) for 8 times.

In this Panja, the actors involved in the discussions of the Bill were members of DPR Panja and officials from the government. In the process of deliberating the Bill, several lobbying took place. The important one was the first lobbying was on 4 and 5 October 2001, which discussed the title of the Bill. Its result informed that the government accepted DPR proposal since it was assumed that the proposal represented a public aspiration, and has been further viewed from the sociological and historical aspects. At the end of the Special Committee review process, the government requested a suspension to lobby, among other, on the new placement of Indonesian Armed Forces relocation.

The materials discussed in Panja included the MRP, regional symbols, protection of indigenous peoples’ rights, human rights, the Commission on Reconciliation, political parties, police, judicial and prosecutorial powers, economy, finance, social, education, health,

environment and sustainability, monitoring and switchover conditions.

After the completion of the discussions of the Bill is finished at the Stage 3, they proceed to Stage 4, namely decision-making, which took place on 22 October 2001. It attended by Minister Hari Sabarno and 370 people from 483 DPR members. In his report, Chairperson Sirait conveyed that Papua was now entering the new era and underlined that various misconducts towards the development that occurred in the past must be eradicated to the roots.

All factions approved the Bill on Special Autonomy for Papua Province as Law; they gave their approval by way of consensus. The government in its final remarks acknowledged that the drafting process was not a simple thing, especially in articulating and aggregating the interests of the Papuan, because it must be combined with the national interests as a whole.

Judging from the actors who played a role in the issuance of Otsus policy as a solution problem in Papua, since the stage in the MPR to DPR, the process showed that the elites performed an important role. The birth of the policy took place in a short time, and without the presence of forum listening to the voice of the OAP (indigenous Papuans). In DPR, the role of OAP was replaced by the Assessment Team. (see Figure 2).

Based on the deliberative forum typology proposed

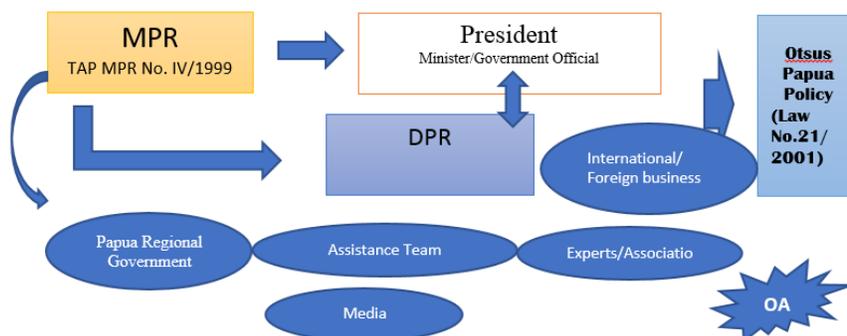


Figure 2. Actors in Otsus Papua Policy Formulation

Source: modified from DPR minutes, 2001, and interviews with informants.

by Saward (2000), deliberative forums conducted within DPR are Type A, which can be identified as Representative-Formal Type. This means, the deliberative forums in DPR were conducted in a representative manner and were implemented formally. In fact, it was only attended by the Assessment Team considered to be a representation of indigenous Papuans, as actors who feel unfairly treated by the government, miserable and violated its human rights. The Team was actually a facilitator assigned by the Governor of Papua, not DPR which has the power to form Law.

Judging from the criteria for the democratic deliberative process in policy making, there are 3 things that must be considered in absorbing the people aspirations, namely influence; inclusion and deliberation. First, influence, did the process have the ability to influence policy and its decision-making? DPR has invited related parties to hearing process, but

none of them involved indigenous Papuans; voters who disagree with Otsus were ignored.

Regarding the influence process took place between DPR and actors invited to the hearing, in FOKER’s view, the Assessment Team, the provincial government and the Papuans invited to DPR were pro-Otsus actors. Therefore, in the criterion of influence, there is no influence-influencing process in the hearing forum and visit, since the actors’ interests were the same.

Second, inclusion. Did in the process, representative Papuan include different points of view and values, providing equal opportunity for each to participate? In fact, DPR has given wide space to the Assessment Team to discuss and fill an open check to make decisions. It seemed that DPR has trusted the information submitted by the Team, that the drafting process in Papua has been conducted in a participatory manner, involving various parties, including the pro-independence. The PDP

denied it; they said that they had been visited by the Team in prison for questioning their opinion of Otsus. Because their choice is independence, however, they never again talked to.

Third, deliberation. Did the process provide open dialogue, access to information, respect, space to understand and create new frameworks on issues, and moves toward consensus? In the Special Committee, in fact, it was not possible to discuss the point of view of the parties who are calling for alternative solutions to problems in Papua. Independent parties were not involved because of their aspiration for the separation of Papua came into the spotlight politicians in Jakarta. Therefore, the dialogue only took place between DPR and the Assessment Team who drafted the Bill, and the deliberation process only occurred in one option, namely the Otsus.

Initial consultation activities were undertaken by DPR by inviting the Assessment Team to give exposure to the draft Bill they made. In its presentation, the actors identified by the Team were only two, namely the pro-Otsus and the pro-Independence. In fact, LIPI identified three actors, which were the Otsus supporters (very red); the independence supporters (very blue); and doubtful parties (pink, light blue, or red blue). The failure of the Team to identify complete actors caused in the difficulty of establishing commitments in policy implementation as Cohen suggests (Saward 2000: 66-67).

DPR was impressed by the claims of the Assessment Team that it was a neutral Team, acceptable to pro-autonomous and pro-independence, and had undertaken activities to explore the participation of the Papuan people. However, from the statement of Rev. Yoman Socrates, Thaha Al-Hamid, and FOKER, it is doubted that the Team can be regarded as a neutral and appropriate one to engage in people aspirations. The Team only brought the concept of Otsus, therefore, it is just an idea of Jakarta.

The Assessment Team continued to work on the completion of the Bill, even if the vote that rejected Otsus continued to be heard. The claims of the Team, stating that the vote of the pro-independence has been accommodated through several provisions contained in the Law, such as the Truth and Reconciliation Commission and the alignment of history was not the same as the concept of the pro-independence. In the view of the drafter of the Law, Situmorang, historical alignment material was included in the Law as a healing process, taking lesson from South Africa experience in making reconciliation, rather than leading to independence. Meanwhile, according to the pro-independence, the alignment of history was intended to sue the results of the Pepera conducted in 1969.

The review forum organized by the Assistance Team, in fact, cannot make all participants, either pro-Otsus or pro-Independence or Doubts, to influence each other as Dryzek (2000) argues. The pro-independence even left the forum area with anger. It was said that the will of the pro-independence to the solution of the Papua problem of historical alignment was accommodated in the draft compiled by the Team. However, the draft was never discussed openly with the parties who expressed it in

consultation forums.

In the visit conducted by DPR to absorb the aspirations of the Papuans, Tumbu Saraswati recounted the viewing of the condition where the pro-independence was angry and left the meeting room. "It is difficult to invite the pro-independence to sit together to discuss Papua future because they want independence". According to Dryzek, precisely in this situation, a deliberative approach is needed because informal communications can take place over time, through public networks and policy dialogue, so this can further give each participant an opportunity to influence each other (He, 2010: 710).

The practice of pseudo-participation in the Papua case aroused because there was time limit issue that had been set by TAP MPR, making policy makers paid less attention to deliberative principles in policy formation. The practice was reinforced in the hearing process to capture input from experts and professional associations. Thus, the forum showed duplicated activities, which would not get a different view of what the Team has stated. Simultaneously, DPR made the hearing as a sideline activity, provided stakeholders no material to be discussed.

The visit conducted by DPR to Papua mostly involved the elites in local government. Whereas, the visit should be used to approach the problem in real terms by looking at the condition and the voice of the local people, especially the informal actors whose voices are often poorly heard. Obviously, the reality on the field reflected something else: when those who wanted independence as solution voiced their opinion, activities were stopped; and those who scream independence were driven out of the meeting room. Thus, there was no room for other Papuans to be heard. This condition has resulted in non-commitment in Papuans, particularly those who wanted independence or who were still in doubt with Otsus.

Rooms for raising Papuan problem depended only on the pro-Otsus parties because the time limit of 1 May 2001 needed to be adhered. The central government has moreover a bitter experience with Timor-Leste, with which since August 2001 had officially split from Indonesia. These situations lead to fear of Papua would also be separated from NKRI. Therefore, Sirait stressed that Papua could ask for anything but did not ask to be separated from NKRI. There was also pressure from the international world to immediately address Papua issue (Elisabeth, 2005).

CONCLUSION

Law No. 21/2001 on Special Autonomy for Papua Province is one of the policies generated by DPR of 1999-2004. The rejection and failure implementation of the Otsus afterwards reminded us the importance to adopt the concept of deliberative public policy. The problems faced by Papua in addition to the imbalance of welfare and injustice is the number of cases of human rights violations that have not been settled and dissatisfaction over the results of the Pepera. This is the problem that continues to be voiced by those who want Papua Independence.

In the formulation stage, the policy-making process

that left behind the pro-independence actors on the grounds of a narrow time since it was difficult to negotiate with them for Otsus caused in the presence of less than perfect participation practices. Representation is done by capturing the idea, but ignoring the process of presenting various actors to hear their voices. The timing of the deliberations of a restrictive policy ultimately results in a pseudo-deliberative, by making deals based on political interests alone. Pseudo-deliberative has resulted in a policy's loss of force for lack of mutual commitment. This research finds that the drafting of Otsus policy in conflict situations still requires public participation.

The Bill formulation by a third party, the Papua Provincial Government and DPRD, was an unprecedented event at that time. This initiative was considered unique since almost all of the draft bills came from the government. DPR's view that the draft Bill originating from Papua was considered to represent the will of the Papuan people was, however, a mistake in the perspective of deliberative policy-making. Therefore, the process of public involvement in the discussions of the Bill runs in pseudo.

Less than perfect participation has resulted in a lack of support in the form of commitments from all parties. This was evident from the withdrawal of the central government in the commitment to implement the law, as evidenced by the delay in issuing government regulations for the implementation of the Law and creating new rules that Perdasi and Perdasus can be prepared.

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