

**FACILITATIVE MEDIATION ON THE IMPASSE IN PAPUA <sup>1</sup>****Mangadar Situmorang <sup>2</sup>****Abstract**

*In regard to political aspirations shown by many Papuans and supporters and the ideal objective of mediation as a peaceful process of conflict management, this paper raises two questions: firstly, how is the likelihood of a third-party mediation to take place in Papua? Secondly, if a mediation facilitated by international actors took place in Papua, how should it be pursued? The objective of this paper is to investigate the opportunity for a third-party mediation to take place in Papua and for the problems in the region to be settled properly. This research will be guided by a synthesis of structural and social-psychological perspectives of third party mediation which emphasises not only the importance of resolving the problems but also the significance of improving communication between conflicting parties in seeking acceptable and applicable agreements. With such a perspective this research will examine how biased and facilitative mediation is able to frame the mediation and bring the low-intensity of conflict but complex problems in Papua to a sustainable peace settlement.*

*This paper shows optimism that the problems in Papua can be settled peacefully. It also provides ground for an internationally mediated negotiation to happen for the GoI and Papuans find peaceful settlements. Based on both theoretical ground as well as empirical observation, the protracted but low-level conflict in the region is overlapped by security and development problems. Instead of continuing the fight and allowing the problems unsettled, the parties of GoI and Papuans believed that the problems to be better settled in peace, including the possibility of third party mediated negotiation. While the Papuans, supported by other parties outside Papua, have called for the international community to facilitate negotiation or dialogue between the GoI and Papuans, the GoI is hesitant. A third party mediator that could preserve the territorial integrity of Indonesia and at the same time protect and promote the lives of Papuans is the key for a mediated negotiation take place in Papua and be successful.*

**Key words:** *conflict resolution, third-party mediation, international relations, Papua*

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## Introduction

In July 2010 a demonstration set up in Papua where thousands of Papuans demanded an international mediated negotiation between the Government of Indonesia (GoI) and the Papuan people in order to bring the problems in the region resolved in peace and just way. It was not the first time to make such a demand. In just a month earlier a larger number of demonstrators urged the Papuan People's Council (MRP) to return the Special Autonomy Law to Jakarta central government and asked the international community to facilitate a dialogue.

In 2009 Indonesian Science Institute (LIPI) has also recommended of the importance of negotiation or dialogue between the Government of Indonesia and Papuan people facilitated by the international community (Muridan, 2009: 160-1). Coincidentally, Neles Tebay, a scholar and religious leader in Jayapura, proposed the idea of "Jakarta-Papua Dialogue" which asserted the role of third party in facilitating the dialogue. "The third party with the role as a facilitator must be from outside Indonesia", Tebay asserted (2009: 46).

Not only are groups in Papua and Indonesia showing support for international engagement in seeking solution to the problems in the easternmost province of Indonesia. International pro-democracy and human rights groups and activists also urged Jakarta-central government to take peaceful mechanisms in responding to outstanding grievances of many Papuans. The Brussels-based International Crisis Group (ICG) has a similar idea by supporting a dialogue between the GoI and Papuan people. Concluding that there has been a deepening impasse in Papua which is caused by (1) "frustration on the part of many Papuans that special autonomy has meant so little" and (2) "exasperation on the part of many Indonesian government officials that Papuans are not satisfied with what they have given", ICG suggested that "the gulf between the two might be resolved by dialogue" (ICG, 2010, No.108).

The notion for an international or third party mediation to manage the problems in Papua might be heavily motivated by the peace agreement in resolving conflict in Aceh. Facilitated by the Helsinki-based Crisis Management Initiative, the three decade-conflict in the westernmost province of Indonesia was brought to peace in August 2005 and the province is now running its self-governance with a greater authority. It might be partly inspired by the internationally acknowledged usefulness of mediation in dealing with conflicts, crises, and problems such as in Papua. As a process of conflict management, "mediation aims to settle conflicts or resolve differences without resorting to physical force or invoking the authority of law" (Bercovitch *et al*, 1991:8). In different words, mediation intends "to stop killings, to create a stable environment in which peace can be nurtured, and to develop a durable framework for a lasting settlement" (Carment *et al*, 2009: 217).

In regard to political aspirations shown by many Papuans and supporters and the ideal objective of mediation as a peaceful process of conflict management, this paper raises two *questions*: first, *how is the likelihood of a third-party mediation to take place in Papua?* And, second, *if a mediation facilitated by international actors took place in Papua, how should it be pursued?*

**The objective of this paper** is to investigate the opportunity for a third-party mediation to take place in Papua and for the problems in the region to be settled properly.

This research will be guided by *a synthesis of structural and social-psychological perspectives* of third party mediation which emphasises not only the importance of resolving the problems but also the significance of improving communication between conflicting parties in seeking acceptable and applicable agreements. With such a perspective this research will examine how *biased and facilitative mediation* is able to frame the mediation and bring the low-intensity of conflict but complex problems in Papua to a sustainable peace settlement.

The discussion will be structured as following. After a theoretical framework of conditions for mediation to take place and to be effective, the nature and dynamics of problems in Papua will be discussed. The so-called “impasse” of situation in Papua will be critically evaluated. The third section will discuss the debates about third party mediation in Papua. Finally, the fourth section will present the likelihood of biased and facilitative mediation to bring the problems in Papua managed appropriately.

### **For a third party mediation to happen and be effective: the theory**

There have been a huge number of researches on mediation produced. Practices of mediation are equally enormous, whether they are reported or not for general readers. Different entities ranging from individual or a group of states, international organization, civil society organization to individual figures devoted their lives and energies as mediators in various conflicts across all continents such as in Northern Ireland and the Balkans in Europe, El Salvador and Guatemala in Central America, Haiti in Caribbean, South Africa, Rwanda, Sudan, Somalia, and Mozambique in Africa, and Sri Lanka, the Philippines, and Indonesia in Asia. Many of their works ended with successful negotiated settlements, while the rest unfortunately fell short.

Both academic and practical works on mediation usually start with a premise and end with a recommendation that through mediation conflicting parties can communicate, share information, bridge different perceptions and interests, and then come to compromises and agreements. But, it is the role of an outsider, intermediary, or third party which makes the process of negotiation take place and result in expected outcomes. Therefore, mediation is often interchangeably used with third-party intervention (Carment *et al*, 2009: 217) and third-party consultation (Kelman, 1992: 66)<sup>3</sup> to show the central role of outsider(s) who control some aspect of the process of conflict management (Crocker *et al*, 1999: 22). According to Bercovitch and Gartner, mediation is best seen as a form of joint decision making in conflict or an extension of bilateral conflict management or a rational, political process with anticipated costs and benefits. They further argued, “It operates within a system of exchange and social influence whose parameters are the actors, their communication, expectations, experience, resources, interests and the situation within which they all find themselves” (2009: 5).

But, what mostly attracts the attention of many parties about mediation is its objective. As stated in a frequently quoted definition proposed by Jacob Bercovitch, mediation is “*a process of conflict management, related to but distinct from the parties’ own*

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<sup>3</sup> Herbert C. Kelman distinguishes mediation which “attempts to facilitate a negotiated settlement on a set of specific, substantive issues through reasoning, persuasion, the control of information, and the suggestion of alternative compromises” from third-party consultation which “attempts to facilitate creative problem-solving by improving communication and analyzing the underlying issues and the relationship between the parties”. He also acknowledges that the distinction is not as sharp in practice as they are in theory (Ibid., 67).

efforts, whereby the disputing parties or their representatives seek the assistance, or accept an offer of help from individual, group, state or organization to change, affect or influence their perceptions or behaviour, without resorting to physical force, or invoking the authority of the law (Bercovitch and Gartner, 2009: 6). With the objective to manage conflict by accepting external help, it is understandable that the effectiveness of mediation becomes the main focus of analysis of mediation. But, Carment *et al* suggest, “mediation effectiveness should be defined not as resolution of conflict *per se*, but as the cessation of violence and the initiation of a very long process whereby adversaries can address mutual grievances and the underlying causes of hostility” (2009: 216). In a more moderate sense, Greig and Diehl (2009) maintain that mediation is likely as “softening up” the dispute for the parties to conflict seek a peaceful solution. With such an ideal, positive, and constructive objective of mediation, it is suggested that analyses on mediation must cover both context variables (characteristics of disputing parties, the nature of the dispute, the nature of the mediator) and process variables (the initiation of mediation, mediation environment, and strategies of mediation) (Bercovitch and Houston, 1996: 11-35; Bercovitch and Gartner, 2009).

Enthusiasm in seeing mediation effectiveness in managing conflict has, however, paid less attention on conditions on which international or third party mediation may take place or conditions on which parties to conflict want to involve in mediation assisted by an outsider. This issue is particularly important due to the case this article concerns that many Papuans and other groups have called for an international mediated negotiation, but the GoI shows no interest in it. Therefore, before speculating how far a third party mediation in Papua can go, it is important to theoretically see theoretical conditions for a third-party mediation to take place.

A decision to seek assistance or accept an offer of help from outsider is in the hands of the conflicting parties. Bercovitch and Gartner make it clearer that mediation is essentially a voluntary process (2009:26). J. G. Merrills also asserts that “mediation cannot be forced and only takes place if disputing parties consent” (2005: 32). Two sequential implications of this voluntary or consent principle are, first, to make mediation take place and, second, to make it constructive and effective. “A conflict will be most constructively and effectively dealt with through mediation when both the parties are willing to commit themselves to the process.... In cases where only one party is interested in seeking mediation assistance, or interested third parties purpose it, the effectiveness of mediation may be reduced considerably” (Bercovitch and Houston: 1996:28). In other words, Isak Svensson infers, “the occurrence of mediation is a function of acceptance at two levels – the supply side (the potential mediator) and the demand side (the parties in conflict)” (2009: 447).

Based on literature exploration there are three factors that affect conflicting parties to agree to accepting third party mediation. They are: (1) the nature and dynamics of conflict, (2) characteristics and strategies of potential mediator(s), and (3) characteristics of the parties to conflict.

Debates about the relation between the dynamics of conflict in the sense of its duration and intensity and the opportunity for third-party mediation to take place can be divided into two points of view. The first one, represented by Zartman (1985, 2000), Haass (1990), Svensson (2009) and Bercovitch and Gartner (2009) among others, argues that for third-party mediation to happen, the conflict has been lasting in many years or that the conflict may be categorized as a protracted conflict (Azar, 1978, 1990; Carment *et al*, 2009). They further proposed the formula of the *hurting stalemate* and *ripeness* of condition for

mediation to commence and succeed. The second point of view, such as Crocker *et al* from United States Institute of Peace – USIP (1999), contends that third party intervention, including mediation, can happen at every stage of conflict ranging from its initial, highest or latest stage.

Giessmann and Wils (2009) maintain that conditions for disputants to submit to mediation are basically selfish in the sense that it is the interests of disputing parties make mediation to happen. But, the interests are indeed contextual in the sense that their fulfilment through conflict or other ways is determined by strategies they choose and by resources they have. Therefore, it is widely acknowledged that mediation may take place when conflicting parties have realized that the costs of continuing their conflict is higher than of trying to end it. Such a realization emerges when the conflict has reached the level that each party is unable to win the conflict through force or has no resource sufficiently to continue the conflict. This situation points to a scholarly term of hurting stalemate and ripeness of condition for third party intervention (I. William Zartman (1985, 2000; Richard Haass, 1990; Merrills, 2005: 32-33). And Greig and Diehl add that the “stalemate must also be costly for the disputants... [and] under these conditions, the disputants will look for a way out of their stalemate and thereby be open to attempts to settle their differences (2009: 164).

The second variable for third party mediation to happen is consideration of the conflicting parties about the potential mediator and how the mediation operates. Merrills argues that if parties believe “that a would-be mediator has little understanding of their position, is unsympathetic, wholly committed to other party, or less concerned with their interests than with a selfish agenda, the candidate is unlikely acceptable, though if there is no objection to mediation in principle, an offer from a different quarter may be more successful” (2005: 34). This leads to the issue of characteristics of mediators and strategies of mediation.

Jacob Bercovitch and Scott Gartner remind that mediation is not a panacea or a magic solution to all conflicts and it may effectively work under some circumstances. They then propose three main factors needed to be comprehensively studied in order to see how mediation work and be effective (2009: 20-30). The first factor is *mediation attributes and identity*. These include individuals (such as George Mitchell in the peace negotiation in Northern Ireland), international institutions and organizations (such as the UN and regional organizations like EU, EU, AU, and ASEAN), and states (such as US in Haiti, New Zealand in Bougainville and Norway in Sri Lanka). Each of these potential mediators has its own characteristics in the sense of capability, credibility and flexibility. But, it has to be added that international non-governmental organizations (NGOs) with particular characteristics are increasingly important mediator and have been involved in conflict management since 1950s. A general hypothesis made here is that mediator identity and attributes influence conflict management outcome.

The second factor is *mediation strategies and behaviour*. Bercovitch and Gartner propose three different strategies that mediators can work out: *communication-facilitation strategies* where mediators adopt a fairly passive role by channelling information to the parties and facilitating cooperation, but exhibiting little control over the more formal process or substance of mediation; *procedural strategies* where mediators are able to exert a more formal control over the process and environment of the mediation and may determine structural aspects of the meetings, control constituency influence, media publicity, the distribution of information and the situation powers of the parties’ resources and communication processes; *directive-strategies* which is seen as the most powerful form of



intervention. Here the mediators affect the content and substance of the bargaining process by providing incentives for the parties to negotiate or by issuing ultimatums. These strategies aim to change the way issues are framed and the behaviour associated with them. As a general proposition, mediation strategy choices influence conflict management outcomes.

Finally, the third factor is *previous experiences and learning in mediation*. This particularly refers to conflicts that have experienced mediation efforts in the past. Bercovitch and Gartner propose that previous mediation and, in particular, previously mediated agreements influence the likelihood of current mediation efforts. Previous mediation efforts can establish norms and a certain rapport between the parties, and these can affect their current disposition and behaviour.

But, for mediation to be pursued, there is an apparently convention that mediators must be seen as impartial, acceptable to the disputants, and deserving their trust. It is even said that the absence of any one of these attributes may well lead to a failed mediation (Bercovitch and Gartner, 2009: 26).

Nevertheless, considering the dynamics of conflict and the issues of incompatibility as discussed above it is unavoidable condition that parties in conflict expect the mediation and/or mediators favour their own side. The proposed settlement is consequently expected to respond their grievances and meet their demands. The quality of peace agreement is at stake that third party mediator has to design and formulate carefully. In this context Isak Svensson contends that “neutral mediators will be less likely to be associated with agreements of higher quality compared to biased mediators”. He provides three comparative reasons for this. First, in terms of incentives, neutral mediators have incentives to hasten the reaching of an agreement that puts an end to the fighting, whereas biased mediators will look for stipulations that protect their side. Second, in terms of leverage and capability, neutral mediators have less capability to bring about concessions. Third, based on preferences of parties in conflict, he argues that parties in conflict would primarily requested biased rather than neutral mediators in situations in which they foresee that substantial concessions are about to be made (2009: 449).

Svensson further argues that biased mediators outperform neutral mediators in terms of the quality of agreements, building on the difference in mediator’s incentives and capabilities as well as differences in the demand for mediation by governments and rebels involved in civil wars. The implication of the argument is that biased mediators will be more likely than neutral mediators to be associated with elaborated institutional peace arrangements that generally are considered to enhance the prospect for peace durability and democratic development.

Svensson finds support for the argument that biased mediators commonly help to create provisions in agreements that can be assumed to be important institutional arrangement for peace and democracy. In particular, compared to neutral mediators, rebel-biased mediators tend to increase the likelihood of political power sharing pacts and third-party security guarantees. Likewise, government-biased mediators, rather than neutral mediators, increase the chance for provisions for territorial power sharing pacts, government-sided amnesties, and repatriation of civilians.

Finally, the third variable for third party mediation to take place is characteristics of the parties to conflict. First, as Carment *et al* consider, the size and number of groups is a

potential impediment to conflict settlement. "It is not unrealistic for as many as five or more "multiple sovereignties" to be engaged in a conflict in at any given time". In some instances, they continue, these groups may be insurgent movements, representatives of legitimate political parties, of factions within ethnic groups or clans, allied on some issues and divided on others" (2009: 220). In cases where one of the parties to conflict is non-state entities, they complicate the likelihood of mediation and its effectiveness. "Non-state actors", Carment *et al* argue, "lack the legal personality of states and therefore have difficulty relating to international norms and procedures that were designed exclusively for states" (Ibid.).

In this context, political status of and power relationship between conflicting parties become critical issues. This is underlined by Haass as saying that ripeness as a prerequisite for negotiated solution "may include the characteristics of the parties to a dispute as well as considerations about the relationship between or among parties" (1990: 232). Carment *et al* make it clearer as saying "in situations where the parties to the conflict have dissimilar military strength, mediation is expected to be less effective. In such cases, the stronger party will be reluctant to grant legitimacy to the weaker one by agreeing to negotiate with them". But, they also suggest that the stronger party (government) may grant legitimacy to mediator and not to the opponent when it wants a third-party mediator involved (2009: 219).

In a case where one party to conflict is an insurgency group, there are three motivations for such a group to be involved in peace agreement mediated by international actors, which are (1) for having national and internal recognition and legitimacy, (2) for having time to restrengthen military force and political base, and (3) for having access to financial and structural resources at national or regional level (Svensson, 2007: 180). Nevertheless, Bercovitch and Gartner have warned that mediation is a costly and risky conflict management. "Once mediation is offered and accepted, all those involved experience certain costs" (2009:21). They further say that parties may be asked to make concessions or to relinquish some control over the process. They may also experience some loss of face since for being seen unable to resolve their conflict on their own. And, they may end up accepting a less-than-hoped-for outcome. "These are very real costs and they have to be managed somehow if mediation is to be effective" (ibid.). For the government side, Svensson adds, there is anxiety where by allowing insurgency groups to have greater legitimacy, time and resources through mediation will make the government reluctant to agree to a mediated negotiation with the insurgency group, even if a settlement by itself is more beneficial for the government compared with continues fighting. There is also fear that the increasing power of insurgency movements implies a decline in power position of the government because a negotiated settlement implies that the government will lose some of its authority. This is a depressing situation for conflict left unsettled despite there is potential for a mutually beneficial settlement, Svensson argues (Ibid.)

In dealing with such a depressing situation and in order to make mediation being pursued, Svensson suggests the importance of fixing commitment problems in the peace process. He explains that the basic logic of the commitment problem theory is that of a time-inconsistency problem where parties to a negotiated settlement show difficulties to credibly commit to uphold mutually beneficial deals. This emerges for example in security issues where the insurgency group was asked to disarm and demobilize while the government with its legitimate monopoly on violence remains armed. A possible solution to this commitment-problem is to have biased mediation which is able to provide security protection for the insurgency group. Theoretically speaking, biased mediators may mitigate commitment problems by being a credible guarantor of peace agreement reached at the negotiation table.

In a study he finds that government-biased mediators have a positive effect on the probability that the parties will reach a negotiated settlement. By accepting mediators that have supported the government side, insurgency group can credibly commit not to abuse the government's concessions or renege on a peace deal from a position of increased strength (Svensson, 2007: 181-3).

Considering the theory of conditions for third party mediation to take place and the prospect for sustainable peace and democracy brought about by third party mediators, there is a ground to support the call for an international mediation to settle problems in Papua. This will be confirmed by empirical observations of the problems in Papua and the state of arts of the debate at national level. Each will be discussed in the following sections.

### **The dynamics of problems and impasse in Papua**

In general view, the problems in Papua generally meet the theoretical conditions for an international mediation to happen. The problems include a secessionist or separatist movement that has been fighting for an independent Papua free from Indonesia since early 1960s. Apart from the allegedly historical fallacies of illegal incorporation of the western part of the Papua Island from the Dutch colonial master to Indonesia, the struggle for the right to self-determination is also fortified by ethnic, cultural and religious claims. Believing Papuans are culturally Melanesian and religiously Christian that different to Indonesians as Asians and Moslem in ethnicity and religion respectively, many Papuans believe to have cultural arguments for being an independent sovereign state. Since the region was effectively under Indonesian authority in 1963, different groups of Papuan have launched resistance both politically and militarily. Free Papua Organization (OPM), was settled in July 1965 – OPM was a name given by Indonesian military forces following the first armed attack by Papuan nationalist group against Indonesian military and police posts in Manokwari (Ondawame, 2010: 64). OPM since then has been seen as an organizational umbrella for all kinds of resistance ranging from armed wing, political clandestine, international diplomatic efforts to societal movement and cultural aspiration against Indonesia's control over Papuan land and people. But, OPM is an amorphous organization (Elmslie, 2002: 26) since it lacks a clear structural organization, unity and resources.

Strong grip hands of the GoI to control the territory have effectively eliminated the Papuan mourning for their right to self-determination. International recognition through the UN SC Resolution and the international realist political game generated a constant denial of Papuan legal, cultural, and religious claims to be independent. In order to maintain its territorial integration and sovereignty the GoI particularly through its armed forces continues to crack down separatist supporters and in a lot of cases with brutality and cruelty. These military measures targeted not only OPM armed forces, but also civilians or non-combatants who were believed as political members or suspected as sympathizers of OPM. Gross violation of human rights in the region took place and has been of the concern of the international community. It is widely reported that not less than 100,000 Papuans have been killed in military contacts or caused by other inhuman treatments. In addition, some thousands of Papuans were forced to seek refuge in neighbouring country of Papua New Guinea (PNG), whereas the number of internally displace persons (IDPs) is hardly recorded due to the limited access for humanitarian workers and journalists to interior parts of the region.



As the region was gradually and effectively controlled and armed conflicts become very rare – to justify the so-called low-intensity conflict, the issue of human rights violation is increasingly central. This is mainly associated with the policies undertaken by the GoI in its political and development programs. Without loosening its military operations in dealing with irregular armed attacks, the region is continuously ruled by security approach. This means stability and order as priority. Political activities are restricted, such as prohibition of raising ‘the morning star’ flag which is seen as a symbol of separatism and restriction of rights to freely express political aspiration.

Social and economic policies that exclude the Papuans of their cultural and economic rights to be respected, protected, and promoted are widely criticized. Transmigration policy that bring non-Papuans to the region has caused various problems from demographic inequality, to social and cultural marginalisation and elimination, poverty, environment degradation, to deterioration in education and health condition such as HIV/AIDs.

In the last decade the problem in Papua is centralized at the Special Autonomy Law. Introduced in 2001 (UU No.21/2001) as part of the general response by central government to the rising communal tension and conflicts in some regions and protests and criticisms to Jakarta centralized power, the Special Autonomy Law grants Papua with a greater power and opportunity in political and government field, general economic issue, and cultural issue. Politically, the Law grants Papua regional government with a broader authority in administering regional development and issues. Economically, the region will get a larger share of revenues from regional natural resources. And, culturally, the law also mandates mechanism and institution that will protect and promote Papuan culture, tradition, and values. Since the Law was issued and brought into effect, protests and criticisms emerged and advanced. Many Papuans, certainly pro-Papuan independence supporters, saw the Law as a political tactic to tame and weaken their struggle. For Papuan moderate but critical groups, the Law was seen as a top-down policy imposed by the central government without sufficient consultation with regional and local leaders and people.

Although in its development the Law was gradually seen as a win-win solution, in its implementation there were huge problems in the sense of its consistency: the establishment of West Papua Province, the priority in pouring the region with money, the fact that only small elites got the benefits and the large people remain living in misery and poverty, security issue and violence and human rights violation continue to happen, the affirmative policy and action to protect Papuan basic rights (culture, land, etc) was absent, and political and power competition intensifies due to the role of MRP and the establishment of several new regional administration (district).

Based on the brief exploration about the problems in Papua there are at least four problems remain unresolved and reach the condition of impasse. It is worth noting that this impasse is likely to create environments for either pro-Papuan independence supporters to resort to violent acts and to strengthen their political basis and network. On the other hand, pro-Papuan integration supporters, especially the security forces and political elite, tend to exploit the situation for their vested interests whether in military career, political positions, and economic benefits. The four problems are:

#### *1. Separatism versus integration*

Claiming Papua as an integral territory of Indonesia and perceiving the problems in the province as domestic affairs lead the GoI to focus its policies on development and law

and order enforcement. With such a political stance the GoI furiously deny any idea for further talk of the political status of the region. Aspiration of inviting international actors to discuss the legality and legitimacy of Papuan incorporation is frantically turned down. The GoI's claim of its sovereignty and domestic policies on Papua, however, is not totally successful to eliminate aspiration and movement resisting Indonesia's rule. A handful armed groups of Papuans deep in the interior jungles of Papua and a number of groups in exile continue to question the legality and legitimacy of Indonesia's rule in their land. They constantly ask the international assistance to restore their historical, political, and cultural rights for being an independent state.

The existing global realpolitik system seems to support Indonesia's sovereignty. The UN, EU, ASEAN and other major countries never raise question on Papuan political status as part of Indonesia territorial and political sovereignty. Nonetheless, the international state-system still provides space for aspiration of right to self-determination. Although not the very immediately neighbouring countries such as PNG and Australia or farther distant major powers, support for an independent Papua is frequently shown by countries of the South Pacific Forum. A small number of civil society associations and international figures show deep concern and sympathy for the Papuans and of their right to self-determination being respected.

The likelihood of international political system favouring Indonesia's political claim on its unquestionable and non-negotiable sovereignty on Papua does not necessarily mean the struggle for an independent Papua and the aspiration for the right to self-determination has entirely ended up. Within this condition this paper argues that a reason for an international mediation is needed and its success to bring the problem resolved is more likely.

## 2. *The failure of special autonomy*

The policies of development and law and order enforcement in Papua are strategically important in dealing with either secessionist aspiration and social and economic problems. But, it was significantly undertaken since *reformasi* or democratic system began following the end of three decades of New Order authoritarian regime. In addition to the regional autonomy policy as an answer to the ineffective and corrupt Suharto's centralized rule, special autonomy was also proposed for particular regions or provinces. While the social and economic parameters to deliver special autonomy could be debated, it is obvious that provinces where separatist aspiration and movement are strong enough, such as Aceh and Papua, were granted special autonomy. This confirms notions that special autonomy was granted to Papua (and Aceh) because of fear of disintegrating from the Unitary State of the Republic of Indonesia (NKRI) as has demonstratively proved by the separation and independence of East Timor.

There are at least three main issues related to Special Autonomy in Papua that have reached the kind of impasse. First, its inconsistent implementation (the idea of forming new province(s) and/or districts); second, its failure to bring development to Papuans at large and has instead generated immense corruption among regional officials and politicians; and third, about the role and political power of MRP in relation to regional government (governor and parliament). According to Special Autonomy Law, MRP is to be established as a consultative body with mandates to protect and promote Papuans' cultural rights and values. The case of SK-14 (refers to *Surat Keputusan* MRP or MRP Decision No. 14, November 2009) illustrates clearly disagreement about MRP's political

or cultural power. Within SK-14 MRP sent a recommendation to Papua regional government that district heads and deputies in the Province of Papua and West Papua must be indigenous Papuans. It was made with a consideration of protecting the cultural rights of Papuans.

### *3. Violence and violations of human rights*

It should not be misunderstood that one crucial problem in Papua without adequate treatment is security governance. The problem is that Indonesian military (TNI) and security (Polri) forces continue to see the problems in the region as mostly associated with a threat to national unitary state by the OPM. This perception has huge implications at least in three main aspects. First, the military and police remain the central players in Papua with a likely independent authority in deploying forces, financing, and deciding military operations. Special Autonomy Law does not confine the armed forces from acting independently. Second, as if it was in emergency or war situation, the armed forces continue enjoying impunity, which means exemption from punishment whenever they act misconduct. Finally, without a clear rule of law and strong civil society that could effectively monitor and control their operations and behaviour, violent acts continue to happen either directly by the armed force units on behalf of national defence or militia groups they established on behalf of civil resilience.

### *4. Economic and social grievances*

Pouring Papua with money based on the Special Autonomy Law has not been able to overcome the longstanding social and economic problems. Although the province has recorded as a region with the largest regional budget, it remains at the bottom in human development index (HDI) – compared to the rest of the 33 Indonesia's provinces. This is shown by Papua Province's statistics where 7.9 percent infant mortality, almost 50 percent Papuans without formal education and only less than 2 percent had graduated from university. As has been frequently reported, much of the supposed development funds went to the pockets of small number regional and local elites. A part of them were spent for irrelevant or less meaning projects. Only a small part was used for education, health, and other related development programs.

## **Debates on international mediation in Papua:**

Pro and contra to third party mediation in Papua is related to three main factors discussed theoretically above: the dynamics of problems, potential mediators, and characteristics of parties. Accordingly, differences in perceiving the nature and substance of the problems lead to difference in conceiving the necessity of international mediation. And the high level of distrust between the GoI and supporters for Papua independence and for mediation make mediation less likely to happen.

The GoI undoubtedly perceives the entire problems in Papua as its domestic affairs. In addition, the problems are seen as solely related to democratization and development process. With these two conceptions, the GoI strongly believes that the problems must and can be handled domestically with emphases on acceleration of development programs and affirmation of democracy processes.

On the contrary, pro-Papua independence supporters are highly likely to see problems beyond Indonesian domestic jurisdiction. For that reason an international intervention is needed. Although with different argument and objective, some groups in Indonesia and in different countries share the importance of third party mediation.

It has to be added the third groups who explicitly show support for an international mediation. Considering the GoI and pro-independence supporters see each other distrustfully (Muridan et al, 2009; Tebay, 2009:19; and ICG, 2010) these supporters believe that a facilitated negotiation or dialogue between the GoI and Papuan groups as a key to bring the problems in Papua effectively managed.

By focusing on the GoI and pro-independence groups as the primary parties to the conflict in Papua, but with a critical view to groups supporting third party mediation, the costs and benefits of third party mediation to both primary parties have to be explored and discussed.

#### *Costs and benefits of international mediation*

##### *a. Costs and benefits for independence groups and supporters*

It has to be noted that groups for Papua independence are not easy to identify. Assuming all Papuans with a vast diversity in tribe (sub-ethnic) groups, religious affiliations, and social-economic strata have preference and show support for independence is completely misleading and groundless. The groups struggling for independence can be simply identified as organized in Free Papua Organization (OPM). These groups openly and continuously fight against Indonesia's rule over Papua and reject all its consequences. It could also be said that almost all of OPM leaders and members are living in the interior jungles or seeking refuge in foreign countries. Supporters and sympathizers can be associated with the independence-minded groups and make a larger number of people resisting Indonesian administration. The latter groups might have resistance against certain policies and/or behaviours of Indonesian government. In this context they may share the feeling that "Papua would be better off with minimal pr no Indonesian influence" (Kivimaki, 2006: 28).

While it is not easy to define precisely the structural and organizational relationship between pro-independence members and its supporters, there are cases each group acted separately and independently. But, in different occasions they appeared to work together in launching attacks against Indonesian armed force posts or in organizing rallies to call for a referendum on the right to self-determination. Within this construction, these two groups are also collectively demanding for an international mediation.

It has been theoretically noted that the calls for international mediation may be motivated by the interest in raising the recognition and legitimacy of pro-Papua independence movement at national and international level. If the mediation happened, the group would have time to (re-)build its armed forces and political strength. And, during the mediated negotiation process, the group may develop broader accesses to structural and financial resources from local, national, and international levels.

Two illustrative cases can be provided to support the argument that mediation will give benefits for pro-independence side. The first case is the informal dialogue between the Forum for Reconciliation of Irian Jaya Society (FORERI) and President B.J. Habibie in late 1998. Although the dialogue was not a formal negotiation

mediated by third party and as a consequence did not result in a formal agreement, the dialogue has effectively helped lift up the leverage of Papuan people at national and international level. With such an increasing confidence and influence in February 1999 a team of one hundred Papuan leaders met President Habibie again with a more explicit demand for Papua independence. Although the move was likely seen as too early and abortive, the kind of dialogue had two implications: it increased the leverage of Papuan groups in dealing with the Jakarta government and it offered a lesson that for a negotiation to be productive and constructive, a third party was needed.

A different case was related to efforts in settling conflict in Aceh. Henry Dunant Centre (HDC) attempted to mediate peace negotiations between Jakarta government under President Abdurrahman Wahid and the Free Aceh Movement (GAM). In May 2000 the first set of negotiation came into a Joint Understanding on Humanitarian Pause in Aceh. A new round of the HDC mediated negotiation continued after Megawati replaced Wahid in July 2001. The mediation brought both parties (the GoI and GAM) to sign a Cessation to Hostilities Agreement (CoHA) in December 2002. However, these two deals failed to bring peace in Aceh since, according to GoI side, GAM has exploited the mediation process and negotiated deals to strengthen its armed force and restore its political influence. This allegedly fact pushed the GoI to unilaterally resign from further negotiation and renege on peace deals.

As a rational process, third party mediation also renders costs to pro-independence supporters. In the sense of conditions for a third party mediation to happen, the GoI is highly likely to propose that recognition on Indonesian territorial sovereignty over Papua should be the very basic prerequisite. Likewise, in the sense of issues of incompatibility that has caused the problems in Papua protracted and in the sense of anticipated settlement, the GoI would firmly insist that Papua as an integral part of Indonesian territory would not be questioned. With this insistence, the mediated negotiation is less likely to favour pro-independence supporters and the likely agreement reached will severely cost the pro-independence supporters. Instead of foreseeing an independent Papua, the third party mediation and proposed agreement may force them to drop all kinds of separatist or independence aspiration.

The Helsinki Memorandum of Understanding which marked a peace end to conflict in Aceh reflected very obviously the insistence of the GoI in initiating CMI-facilitated mediation. The GoI, particularly with the central role of Vice President Jusuf Kalla, underlined that the mediated negotiation started and concluded with Aceh as an integral part of Indonesian territorial sovereignty. Issues of incompatibility other than that were opened for negotiation and concessions.

*b. Cost and benefits for the GoI*

As the GoI does so far not accommodate the idea of third party mediation, it might be caused by an assumption that mediation costs rather than benefits the government. The GoI is likely to see that mediation brings about advantage for the increasing legitimacy and capability of pro-independence movement and at the same time disadvantages for the GoI of declining power over the region and people of Papua. It may also see the risks of the GoI of losing face because of being seen incapable to solve the problems through all instruments domestically available. The worst thing the government has to bear is a loss of control over the disputed territory as the outcome of the mediation. The undesired consequences of all these are for the government being under severe criticisms and condemnation. And, without a large political support and high confidence, the government may suffer from impeachment and forced to step down.



Nonetheless, there are also potential benefits for the GoI to accept third party mediations. Through international mediation the GoI may strengthen its legitimacy in incorporating Papua into its sovereign territory. This might be not the GoI's most interest given the fact that none of foreign states or international organizations questions the legal status of Papua within Indonesia. Rather, the GoI through international mediation can confirm many Papuan groups and the independence-minded supporters that resisting or questioning Indonesian sovereignty on Papua is fruitless. As a consequence, the GoI lawfully may ask all Papuan wherever they live to make contribution to the development of the Papuan region and people.

Without putting territorial integration at stake, the GoI would likely to have benefits from third party mediation. First, mediators can help verify the real problems in Papua by identifying the sources and advancing potentials inherent in the problems. Second, mediation may help create constructive communication between the GoI and Papuans either they are pro-independence or resistance groups. Third, mediation may reduce significantly violence in the region. Finally, though not the least, the GoI will lift up its leverage in domestic and international politics and the state of Indonesia will be globally appreciated as a credibly peace and democratic country.<sup>4</sup>

Considering the benefits rather than the costs the third party mediation may offer to each party in conflict in Papua, they would be seen as the ground for third party mediation to happen. But, before it takes place, several questions emerge and their positive answers make third party mediation more likely to be pursued and to be effectively in settling the problems.

*Questions for third party mediation to happen and successful*

- *What are the agenda*

The issues of incompatibility that have brought Papua to a problematic region have to be made clear. This is the first challenging task to be handled if an international mediator offers help or accepts an invitation to mediate. As discussed above the kind of impasse in Papua includes the legal and political status of Papua within Indonesian sovereignty. But, there is also impasse associated with the implementation of Special Autonomy Law. Two other issues indicating similar impasse are security and human rights violation in the past and social and economic dilemmas. Whereas the impasse in the last three issues are more likely to be accepted agenda, the issue of status of Papua in Indonesian sovereignty in the agenda of mediation is likely to make the GoI disinterested in the process of conflict management. Likewise, declining the agenda will make pro-independence refuse to take part.

Supporters for international mediation tend to agree that the issue of legal and political status of Papua should not be included. In its conception of "negotiating the past", LIPI argues that conflict in Papua has international dimension because the integration of Papua was determined by other countries such as the USA, the Dutch and the UN. However, LIPI continues, the engagement of these countries is more likely in the form of consultation where they may explain their roles in the time of power transition from the Dutch to Indonesia (Muridan, 2009: 161). On the contrast, Neles Tebay asserts that the separatist or independence issue has to be not-negotiated. His main argument is the GoI's suspiciously believes that the dialogue will be used by pro-independence groups to demand for independence (2009: 19-20).

To avoid a lingering stalemate because of the agenda of independence, it is likely productive by plotting the Special Autonomy as the starting point and concluding one

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<sup>4</sup> These benefits are normative as they refer to the ideal process and objectives of mediation. See Jacob Bercovitch, 2002: 9)

as well. The peace negotiation in Aceh has proved it where the separatist or independence was dropped for the negotiation to take place and be constructive. As Timo Kivimaki maintains the Special Autonomy with a reference to the self-government in Aceh should be an alternative to independence that could make a peaceful dialogue progressive (2006: 56-7). The idea also shares by other intellectual figures and political leaders. Jusuf Wanandi for example, as cited by Kivimaki, stated that Special Autonomy Law should be the platform for negotiations on a mutually acceptable solution” (2006: 55).

Special Autonomy Law as an overall framework to negotiate the problems in Papua, however, should not overlook another impasse of two other issues that Special Autonomy has allegedly failed to overcome. They are the reduction in violence and the need for social and economic development with affirmative policies.

- *Who mediate*

In regard to potential third party mediator there has not been yet an open debate. This is largely caused by the GoI's disinterest in international mediation. But, in many occasions, pro-independence and pro-mediation supporters have mentioned the UN, the USA, and the Dutch as preferred mediators. The names are put to surface due to allegation of their historical mistakes in deciding and supporting the incorporation of Papua in 1960s. Researcher team from LIPI and individuals (like Neles Tebay, 2009 and Socratez Yoman, 2008 and 2009) are opened to non-state mediators. Drawing a lesson from negotiated peace settlement in Aceh facilitated firstly by HDC and conclusively by CMI, they conceive that international non-governmental organizations (NGOs) are capable and credible to facilitate negotiation between Jakarta and Papua. But it is worth noting that in Aceh the effective roles of non-governmental organizations (i.e. CMI) in successfully mediating the negotiation was accompanied by international or regional organizations (i.e. EU and ASEAN) in monitoring the implementation of peace deals (i.e. Helsinki Memorandum of Understanding) and with an overwhelming back-up with political and financial support by the EU.

- *Who are the parties (in particular the Papuan side)*

This is an issue that may complicate the third party mediation since neither party to the conflict can be convincingly seen as a unitary entity. The Papuan side seems more complicated because they must be not limited to pro-independence fighters and sympathizers and as noted the problems in Papua are multidimensional. Within the fighters there are armed wings (National Liberation Army of West Papua – TPN) who organize guerrilla war. Political fronts, although do not show clearly organizational structures including permanent offices in Papua or elsewhere in Indonesia, and diplomatic agencies, from Pacific to Australia and Europe and USA, must be equally counted. West Papua National Authority (WPNA) and West Papua National Coalition for Liberation (WPNCCL) are two disputing fronts in representing politically and diplomatically the Papuan cause. The likely supporters or sympathizers are larger. Papuan Presidium Council (PDP) which was then replaced by Papuan Customary Council (DAP) and the law-based Papuan People's Assembly (MRP) could not be simply categorized as pro-independence sympathizers. And tribal leaders and groups, religious institutions, and civil society associations share the dreams of Papuans living in freedom, peace and prosperity. For the third party mediation to have legitimacy and be successful, all these groupings must be counted and represented.

From the GoI side, the problem of representation is more likely political than technical administration. In terms of administration, it is the executive body that has the authority to decide and take part in mediated negotiation. Exemplified in the case of Aceh, the head of national government took the responsibility in initiating and negotiating with GAM. Members of Indonesian Parliament (DPR) and nationalist politicians and commentators fiercely criticized the GoI of secretly negotiating with rebel group (GAM) or without consulting DPR. In the case of Papua, the GoI may use the same argument that it is going to negotiate with national fellows (i.e. Papuans) for national interests in preserving NKRI and bringing peace, order, development in Papua. With such a constitutional frame, the GoI will be the legitimate party to the mediated negotiation with the Papuan representatives.

- *What are the likelihood of outcomes*

As discussed above, the likelihood of outcomes of the third party mediation would not be much different to the agreed conditions for mediation and agenda of mediation. Considering the costs and benefits of third party mediation it is expected that each side will give concessions to another. The negotiated and agreed settlement is expected to provide incentives that would be effective to end threat and/or question on Indonesian sovereignty over Papua and simultaneously incentives that will satisfy the Papuans in demands for power sharing, security and social and economic progresses.

### **Facilitative mediation for special autonomy implementation**

The potential mediator to the problems in Papua is more likely a non-governmental organization. To avoid a useless debate of being intervened by other states, the non-governmental mediator is acceptable to both sides of the GoI and Papuans. Whether it may be newly formed with an ad-hoc organization or is a well-established one, it must have capability and credibility. It is theoretically believed that mediation may be effective if the mediator has a higher degree of leverage over the parties to the conflict. But, since leverage is a very fluid concept, the credibility and capability of mediator are likely determined by the level of acceptance of parties rather than by its material or objective strengths. In a complex interaction between parties in conflict and mediator to seek settlement of the conflict, the mediator must be able to change the parties' behaviours and their power relationships. If the changes are basically affected by incentives and/or disincentives (for example, promises of economic assistance or threats to reduce military assistance), the level of such leverage is ultimately in the hands of major states or international governmental organizations. The NGOs' leverage mostly rests on its ability to convince parties of the benefits of negotiating and reaching agreed deals in order to avoid the costs of continuing conflict or of the problems unsettled.

The peace negotiation and deal in Aceh shows that CMI gained a great respect from the GoI and GAM. It was largely affected by its broad experiences in conflict settlement, its leader reputation, and overwhelming support of the EU. To the sides of parties in the negotiation, they also demonstrated high respect to each other and strong commitment to the negotiation processes and to the outcomes. Once the GoI and Papuans agree to mediated negotiation, the mediator will cover the following strategies and activities.

### **First, creating and maintaining a better communication between the GoI and the Papuans**

This article wants to re-emphasise that to a great extent the problems in Papua are related to communication problems. How the GoI and Papuans differently perceive conditions in Papua and how they communicate the different perceptions have a great impact to the continuation of problems and the short of deepening impasse. The settlement of the problems is therefore greatly determined by improvement in communicating misperceptions and as a result building a common perception.

In fixing up communication between the parties, NGO mediator can work on clarifying by framing the problems in Papua within Indonesia democratization and development processes. They might be also contextualized in the regional and international settings. The demands for independence for example need to be seen as a common desire since the international system both its norms and practices allow such demands to be raised. Historical, legal, or cultural arguments to justify the right to self-determination can be found across the globe and can be similarly used by other sub-national entities. At the same time, the Papuans, in particular separatist groups or pro-Papua independence fighters, are better to know that the international structure has also limitations in ensuring every nationalist claim to be ended with a sovereign state. Within the national structure, the opportunity to be separate and independent is even very limited and in some cases with a grave cost.

Problems of political power-sharing, violence and insecurity, and social-economic grievances are probably incorrect to be seen as unique or solely happened in Papua. Similar problems are also found in other provinces. Nonetheless, based on qualitative and statistical assessments the GoI must acknowledge that Papua needs specific attention.

By correcting misperceptions and framing them in a broader context, mediator may help to reduce distrust and for that reason to build trust between the GoI and Papuans. This is probably carried out by convincing that not all Papuans support independence or want to be separate from NKRI. Likewise, criticism and demonstrations by many Papuans must not always be seen as resisting Jakarta government or rebelling against NKRI. On the other hand, Papuans must also see the GoI of having good intentions in bringing peace and prosperity in Papua but at the same time need to realize that the GoI is hindered by lacks of resources and obstructed by other political and bureaucratic matters. Mediator must be able to provide each party with strong evidence of their imperfect information that has perpetuated the problems.

One crucial part of this communication improvement is coordination within the GoI. Simply to say, there must be a good coordination and synergy between Jakarta central and provincial governments and among district administrations. In the issue of security and peaceful order, the Indonesia security forces (TNI/Polri) must be a key part in coordinated communication. To some degree informal and non-formal leaders and civil society associations need to be included in a coordinative communication. Similar improvement is needed within the Papuan side. Divisive Papuans are only to hamper development programs and law enforcement. The more unified Papuans are the more opportunity is to bring improvement in the region.

### **Second, helping to formulate agreements on which both sides show respect and commitment to implement them**

With communication culture improves, both sides are ready to negotiate settlements in Papua. As the problems of impasse in Papua encompass the issues of independence, security, social and economic development and human rights, the negotiated settlements need to be consistent.

- a. Clarifying and confirming Special Autonomy Law: territorial and political power sharing

The demands of Papuans for having a greater authority in administrating the region have to great extent been delivered by the Special Autonomy Law (No.21/2001). In its general provisions, Article 1.b stipulates that “The Special Autonomy is a special authority recognized and granted to the Province of Papua to regulate and manage the interests of the local community according to its own initiatives based on the aspirations and basic rights of people of Papua”. The following points (d, e, and f) state that the Regional Government of Province of Papua comprises the Governor as the head of executing body and the House of Representative of Papua (DPRP) as the legislative body. In point g, the Papua People’s Assembly (MRP) is “the cultural representation if the native people of Papua, having certain authorities in the protection of the rights of the native people of Papua based on the respect for the customs and culture, the empowerment of women and the strengthening of religious coexistence as regulated in the present Law”.

The Law also recognizes that “The Province of Papua may have a regional symbol as a standard of greatness and cultural symbol of the glorious identity of the people of Papua in the form of the regional flag and regional hymn, which cannot be construed as symbols of sovereignty” (Article 2). This is accompanied by provisions of regional division (Article 3) and regional authority (Article 4). Regions entitled for special autonomy include the Province of Papua and all districts or regencies and municipalities within the province. In regard to regional authority, it is stipulated that “The authority of the Province of Papua shall cover the authority in all sectors of administration, except for the authority in the sectors of foreign policy, defence and security, monetary and fiscal, religion, and judicial and certain authority in other sectors regulated by legislative regulations” (Article 4.1). It is also stated, “Aside from the authority stipulated in paragraph (1), within the context of executing the Special Autonomy, the Province of Papua shall be granted special autonomy pursuant to the present Law”. And, “The execution of the authority as stipulated in paragraph (1) and paragraph (2) is further regulated by *Perdasus* and *Perdasi*.”

Three central issues from the provisions mentioned above need to be clarified and confirmed. First, the role of MRP as a cultural representative of the native people of Papua has to be made clear the extent of its political authority. There has been a severe debate on one interpretation that its mandate to protect the Papuans of their basic rights and culture is definitely a political matter. For an example, in November 2009 MRP decided and proposed that the head of district in Papua must be a native Papuan. The decision, the so-called SK14, was made with an argument in accordance to the interest of protecting Papuan culture and rights. The proposal, however, was rejected by Jakarta government through the Interior Ministry.

Second, the regional division has to be consistently implemented under the Special Autonomy Law. The Law implies Special Autonomy to the Province of Irian Jaya which is then known as Province of Papua. However, in 2003, under the Law 45(?)/1999, the Province of Irian Jaya (or Papua) was divided into two provinces, the Province of Irian Jaya (the Province of Papua) and the Province of Irian Jaya Barat (the Province of West Papua). It has been fiercely questioned whether Special Autonomy applies to both provinces or the Province of Papua alone.

Third, *Perdasus* (as regional regulations based on Special Autonomy) and *Perdasi* (provincial regulations) must be clarified in their makings. Special regional regulations (*Perdasus*) are adopted in collaboration by the Governor and DPRP with an approval by MRP, whereas regional regulations (*Perdasi*) are jointly drawn and



adopted by the Governor and DPRD. Widely perceived as the implementation of the Special Autonomy Law, the Special Regional Regulations (*Perdasus*) are accordingly expected to be effectively implemented by issuing a number of *Perdasus*. The governor and DPRD are expected to take initiatives. Two problems emerge here. First, these two decision making institutions are too slow in producing *Perdasus*. Second, in responding to such slowness, MRP has hastily taken initiative in proposing such as SK14 mentioned above. This lead to competition and conflict between MRP and other government bodies (the governor and DPRD).

There is an urgent need for mediator to lay the ground for sustainable peace, democracy and development in Papua by making very clear the territorial base and political base of power sharing. The Special Autonomy has granted Papua a greater authority, but its bases both territorial and political must be made clear and both sides have to be committed to their respected implementation. As the theory of biased mediator suggests that the government-biased mediator may helpful in preserving the territorial integration of Indonesia. But, it is also suggested that for that interest, the mediator need to take side of the Papuans for their interest in implementing greater authority within a clear territorial borders and political framework.

- b. Guaranteeing security: protection of pro-independence supporters and sympathizers and respect for security apparatus (law and order enforcement?)

Following negotiated settlement on the territorial and political bases of Special Autonomy as a clear mechanism in power-sharing, mediator is expected to ask both sides to find agreed mechanism in protecting Papuans and respecting security forces. Referring to the experiment in Aceh, the GoI was asked to withdraw its non-organic armed forces (such as Kopassus, Kostrad, and Brimob) and to deploy organic units with number agreed by the GoI and GAM. In addition, local Acehness were recruited to strengthen regional police in maintaining peace and order. The withdrawal of a substantial number of TNI/Polri personnel, especially the non-organic units, from Papua may help reduce violent acts in the region. Two additional acts need to accompany: the dissolution of armed civilians or militia groups and the recruitment of more local Papuans in keeping order and law enforcement through local policemen.

The negotiated settlement has also to ensure that pro-independence supporters are disarmed, decommissioned, and demobilized. This might be better followed by their recruiting to local law enforcement force.

- c. Ensuring social and economic accesses (development with affirmative/discriminative policies)

Affirmative policies in order to give more benefits for local Papuans are demanding. As noted, the needs for education and health services are compelling.

- d. Enabling repatriation of exiled Papuans

Around ten thousands of Papuans still live in PNG and seek refuge in other countries. The negotiated settlement needs to ensure their repatriation with the GoI provides them with security protection and social and economic incentives. It has to be agreed that the repatriated Papuans have places to (re-)settle and have accesses to economic resources.

- e. Opening up for dialogue on regular and institutional basis in dealing with disputes

An institution needs to be settled with a main task to coordinating communication between the GoI and the Papuans. This institution is also expected to function in

monitoring the implementation of agreed settlements and resolving disputes peacefully in the field.

f. Human rights protection and respect (violation of human rights in the past?)

With the withdrawal of substantial number of armed personnel from Papua, the respect and protection of basic rights in Papua is expectedly rising. One issue that seems to be seen as too sensitive is the trial of human rights violation in the past. It is highly unlikely that a judicial court or any form of a truth and conciliation commission will be established and works well. The experiences in Aceh and East Timor show that such a healing institution failed to emerge and work well. While this kind of mechanism is highly desired, its realization faces grave difficulty.

## Conclusion

This paper shows optimism that the problems in Papua can be settled peacefully. It also provides ground for an internationally mediated negotiation to happen for the GoI and Papuans find peaceful settlements. Based on theoretical and empirical observation, the protracted but low-level conflict in the region is overlapped by security and development problems. Instead of continuing the fight and allowing the problems unsettled, the parties of GoI and Papuans believed the problems to be better settled in peace, including the possibility of third party mediated negotiation.

While the Papuans, supported by other parties outside Papua, have called for the international community to facilitate negotiation or dialogue between the GoI and Papuans, the GoI is hesitant. The Papuans have clear motivations to make such a demand. On the other hand, the GoI has strong arguments to refuse any kind of foreign engagement in settling the problems in Papua. Arguing primarily the problems as Indonesian domestic affairs and their solutions are able to be sought through national political democracy and development programs, the GoI has so far shown no interest in inviting or agreeing to external mediator.

However, looking at the nature and dynamics of problems in Papua, acknowledging the characteristics of parties to the problems, and taking into account the positive experience of negotiated settlement in Aceh, this paper argues that the problems in Papua could also be settled through the same way where an international NGO, backed up by international major powers such as the UN or EU, can bring the GoI and Papuans to negotiation table and seek peace settlement. Respecting the GoI's claim on its territorial sovereignty on Papua and its policy on Special Autonomy in Papua, a pro-government biased mediator will be crucial. On the other hand, for the Papuans' demand for a greater authority in ruling the region with respect to their basic rights and traditions, the Special Autonomy Law is very likely the best starting and concluding point.

The third party mediation and mediator is highly expected to bring about confirmation for the implementation of the Special Autonomy Law where both sides show determination and commitment. This would be done by developing constructive communication between the parties for both sides to have a common perception of the problems. This will be accompanied by building trust among them. Based on the increasingly positive communication and trust, settlements to the problems are able to be negotiated and achieved. The territorial and political bases of power-sharing as part of the implementation of Special Autonomy need to be made clear and agreed. Security problems can also be settled by reducing the number of armed forces (TNI/Polri) and decommissioning Papuan armed wings.

Other possibly accepted settlements include the importance of affirmative policies and development programs for the Papuans and the resettlement of Papuans living in exiles.

A third party mediator that could preserve the territorial integrity of Indonesia and at the same time protect and promote the lives of Papuans is the key for a mediated negotiation take place in Papua and be successful.

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