

**THE ROLE OF THE GOVERNMENT IN PROTECTING THE HUMAN RIGHTS OF CIVILIAN
PAPUA IN RELATION TO THE EXISTENCE OF KKB AS TERRORISM IN THE PERSPECTIVE
OF JUSTICE**

Rosalina Indah Sari

Faculty of Law, STIH IBLAM, Jakarta, Indonesia

Corresponding Author e-mail address: rosalinaindahsari59@gmail.com

Abstract: The conflict in Papua has significant implications for the national security system. The presence of KKB groups that continue to carry out brutal acts of terrorism, even targeting the Papua community, has compelled the government to make maximum efforts in apprehension. Attacking the KKB group becomes necessary because based on a long history of government from the time of President BJ Habibie (1998-1999) to the Jokowi administration, no peaceful agreement or resolution has been reached with the KKB. Instead, their criminal actions have become more brutal. These actions are taken in accordance with the fourth paragraph of the Preamble of the 1945 Constitution, which states the aspirations and goals of establishing a government, namely to protect the entire Indonesian nation and all of its descendants. Although the Jokowi government has made significant efforts to provide considerable attention to the people of Papua through infrastructure development to achieve the welfare of the Papuan people, the conflict with the KKB is not merely an economic and welfare issue. The presence of the KKB poses a threat to the national security system, thus necessitating law enforcement efforts within it and the protection of the rights of the Papuan people. The classification of the KKB as terrorists is based on their actions. Although some parties, such as the National Commission on Human Rights (Komnas HAM), argue that such labeling may cause unrest in the Papua community, the government's statements regarding this labeling have been criticized. However, the government labels them with the aim of facilitating efforts to eradicate the KKB group in order to protect the people of Papua and the national community as a whole. The government, through law enforcement agencies, is striving to resolve the issues and conflicts in Papua in order to protect human rights, particularly the civilian victims who are considered innocent but have always been victims in the series of conflicts with the KKB.

Keywords: Government Role, Civilian Papua Human Rights Protection, Justice Perspective

I. INTRODUCTION

In the context of human rights protection, the government's role in accommodating all legal elements, ranging from law enforcement systems to policy-making, is crucial to achieve justice for all Indonesian citizens. Article 28D (1) of the 1945 Constitution of the Republic of Indonesia asserts that "Every person has the right to recognition, guarantees, and equal protection before the law." In the Preamble of the 1945 Constitution, the fourth paragraph states that the purpose of establishing a state government is to protect the entire Indonesian nation and all of its descendants. This affirms that the primary goal of a government is to protect every citizen in all circumstances and against anyone who violates their constitutional rights. Many philosophers have discussed the concept of justice, one of whom is Aristotle (Krishna Djaya Darumurti, 2016). In philosophy, justice has a complex meaning. Aristotle views justice as something based on proportionality, that is, something that is in accordance with the rightful condition. Aristotle divides justice into two forms: distributive justice, which relates to the fair distribution of rights to individuals, and corrective justice, which concerns the relationship between society and the state in determining rights. The principle of justice must be upheld in human life comprehensively. In legal philosophy, there are several desired objectives, including realizing justice, maintaining order and peace, forming an orderly, peaceful, and secure society, protecting human interests in legal interactions, and improving the general welfare.

Since Indonesia's independence, Papua has been a controversial region as its existence is considered "disputed" by Indonesia and the Netherlands. However, the root cause of the conflict in Papua is actually the lack of justice and inequality in the socio-economic well-being of the Papuan community. Factors such as education, healthcare, and employment opportunities remain important concerns. The people of Papua desire recognition as dignified human beings. Therefore, it is important to engage in constructive dialogue to create peace in the land of Papua. The protracted conflict in Papua is actually more related to a sense of injustice. The Papuan community perceives an injustice in the relationship between the central government and the

regions, especially in Papua. Papua has the largest reserves of gold and copper in Indonesia, and possibly in the world, yet the benefits from mining activities are felt very little by the Papuan people (Sri Yanuarti, 2012). The existing facilities, infrastructure, and development do not reflect the success of mining exploitation. This is one of the issues felt by the Papuan population. They feel that the province of Papua is not treated equally compared to other regions. This injustice has become one of the triggers for the protracted conflict in Papua, including the presence of the KKB (Armed Criminal Group). Before being labeled as terrorists, the KKB initially started as a group engaging in violent acts in Papua.

In the Indonesian Dictionary (KBBI), terrorism is defined as the use of violence to create fear in an attempt to achieve goals, especially political ones. Simply put, KBBI defines terrorism as acts of terror, in accordance with Article 1 number 2 of Government Regulation in Lieu of Law (Perpu) No. 1 of 2002, as amended by Law No. 5 of 2018. Terrorism is an act that utilizes violence or threats of violence that create an atmosphere of terror or widespread fear. Such acts can result in mass casualties and/or cause damage or destruction to vital strategic objects, the environment, public facilities, or international facilities, with ideological, political, or security disruption motives. As a different designation, depending on who makes the statement, the Armed Criminal Group (KKB) initially was the Free Papua Movement (OPM) established in 1965. The aim of the Free Papua Movement (OPM) was to end the administration of Irian Jaya and separate from Indonesia. Initially, the OPM pursued diplomatic channels and conducted actions such as raising the Morning Star flag (Wahyu Satria Budi Iriansyah, 2021). However, the OPM later engaged in militant activities that escalated into the conflict in Papua. The Morning Star flag became a symbol of Papuan unity and would be raised by separatist groups every December 1st, considered as Papua's independence day. The Police referred to this group as the Armed Criminal Group (KKB), considering the crimes they commit as criminal offenses. Therefore, the term OPM was later changed to Armed Criminal Group (KKB), with the intention that if any Papua KKB group is captured, they will be immediately detained on criminal grounds.

The ongoing conflict in Papua, which continues until today, did not originate from simple root causes but rather from complex issues. There are two main problems faced by the Papuan people, namely the cycle of violence and suboptimal public services. Taufan mentioned several underlying issues, including discrimination and marginalization of Indigenous Papuans in Papua and other regions of Indonesia, as well as inequalities in education, healthcare, and economy based on community participation. The history of Papua's integration into the Republic of Indonesia also serves as the origin of actions taken by the Armed Criminal Group (KKB) or Armed Separatist Group (KSB) in Papua. Papua is the only region in Indonesia that reunited with the Republic of Indonesia through the New York Agreement signed by the Netherlands and Indonesia on August 15, 1962 (Tholib Effendi, 2021). Richard Chauvel, an expert in Papua's political history, also concluded that there are at least four underlying issues that can be identified as sources of conflict. Firstly, the disappointment over Papua becoming part of Indonesia. Secondly, the perceived competition between Papuan elites and officials from outside Papua who have dominated the government since the Dutch colonial era. Thirdly, differences in economic development and governance in the land of Papua. And fourthly, the marginalization of Indigenous Papuans due to the arrival of migrants. These perspectives provide legitimacy to dissatisfied groups, thus giving rise to pro-independence movements in the land of Papua (Boy Anugerah, 2019).

In April 2021, the government officially designated the Armed Criminal Group (KKB) in Papua as a terrorist group. The government's decision to label the KKB as terrorists received not only negative but also positive responses from many people. According to the government, the terrorist status was based on the fact that the KKB has committed a number of crimes. The National Commission on Human Rights (Komnas HAM), as an independent institution with equal status to other institutions, is responsible for conducting assessments, research, education, monitoring, and mediation related to human rights. This is explained in Article 1 of Law Number 39 of 1999 concerning Human Rights. The national Komnas HAM institution was established by the Indonesian government with the aim of respecting, protecting, upholding, and promoting human rights for Indonesian citizens. Human rights themselves are inherent rights that belong to every human being and cannot be separated from their existence as human beings. Human rights are possessed by every individual inherently, not granted by society or based on positive law. Human rights have existed as long as humans have existed, as the only requirement to have human rights is the existence as a human being. Law Number 39 of 1999 concerning Human Rights regulates various aspects related to human rights. This law explains the definition of human rights, the protection of human rights, types of human rights violations, and the government's responsibility in fulfilling human rights. The law consists of 106 articles and also regulates the establishment of the National Commission on Human Rights in Indonesia.

Some articles in Law Number 39 of 1999 regarding human rights can be improved as follows:

1. Article 4: The right to life, the right to be free from torture, the right to personal liberty, thought and conscience, the right to religion, the right to not be enslaved, the right to be recognized as a person and equality before the law, and the right to not be prosecuted based on retroactive laws, are human rights that cannot be diminished under any circumstances and by anyone.
2. Article 12: Everyone has the right to protection for personal development, education, self-improvement, and the improvement of their quality of life in order to become a person who is faithful, pious, responsible, morally upright, happy, and prosperous in accordance with human rights.
3. Article 13: Everyone has the right to develop and benefit from science and technology, arts, and culture in accordance with human dignity for personal well-being, the nation, and humanity.
4. Article 14: a. Everyone has the right to communicate and obtain necessary information for self-development and social environment. b. Everyone has the right to seek, obtain, possess, store, process, and convey information using all available means.
5. Article 32: Freedom and confidentiality in correspondence, including communication through electronic means, shall not be violated except based on a court order or other lawful authority in accordance with the provisions of the legislation.
6. Article 33: a. Everyone has the right to be free from torture, punishment, or treatment that is cruel, inhuman, degrading, and diminishes their dignity and humanity. b. Everyone has the right to be free from enforced disappearance and extrajudicial killing.

Thus, these articles underline the importance of human rights, including the right to life, self-protection, education, information, and freedom from torture or inhumane treatment.

The government, through law enforcement agencies, is making efforts to resolve issues and conflicts in Papua in order to protect human rights, especially for innocent civilians who have always been victims in the series of conflicts with the armed criminal group (KKB). One of the current legal protection efforts is the establishment of the Joint Committee on Truth and Reconciliation to resolve six out of seven cases of past serious human rights violations that have been investigated by the National Commission on Human Rights (Komnas HAM). The six cases include mysterious shootings between 1982-1985, the Talangsari incident in Lampung in 1989, forced disappearances in 1997-1998, the May 1998 riots, the Trisakti incident, the Semanggi I and II incidents, and the Paniai Tragedy that occurred on December 7-8, 2014. In the Paniai Tragedy, four civilians were shot dead and 21 others were injured when people protested against the previous day's assault by the Indonesian National Armed Forces (TNI) on a youth group. These various cases will be resolved through non-judicial means, namely reconciliation. The aim is to achieve a fair resolution and promote peace in Papua.

So far, the protection of civilian rights regarding the Free Papua Movement (KKB) cases in Papua is considered inadequate by human rights institutions. There are various other cases that have occurred in Papua that fall under the category of serious human rights violations. Several cases of violence in Papua have been documented, such as those occurring in Paniai, which frequently happen in Papua. According to KontraS records, there are still a number of unresolved cases of violence in Papua, including the Teminabuan Case (1966-1967), the Kebar Incident on July 26, 1965, the Manokwari Incident on July 28, 1965, and the Military Operation of 1965-1969. In addition, there were cases of forced disappearances in Sentani in 1970, Military Operations in Paniai from 1969-1980, Military Operations in Jaya Wijaya and West Wamena from 1970-1985, murder cases in Timika from 1994-1995, murder cases in Tor Atas Sarmi in 1992, the forced disappearance of Aristoteles Masoka, the murder of Opinus Tabuni, and many other cases that have not been well-documented.

The attacks carried out by the KKB not only target civilians but also target TNI (Indonesian National Armed Forces) and Polri (Indonesian National Police) personnel. For example, there have been cases of four people being killed by the KKB in two locations, namely in Pegunungan Bintang Regency, Papua Province, and Puncak Regency, Central Papua Province. Additionally, there have been attacks on TNI-Polri personnel while guarding tarawih prayers in Central Papua by an Armed Criminal Group (KKB). As a result, two personnel were killed in the attack. Recently, four soldiers also died during a mission to rescue a Susi Air pilot in the Mugi District, Nduga, Papua Pegunungan. In addition to attacks on civilians, including healthcare workers, clashes have also occurred in several healthcare facilities. Several victims have died in these incidents. The Armed Criminal Group (KKB) continues to launch attacks in the Papua region, as happened three times in December 2022. These attacks resulted in the deaths of five civilians. Initially, the KKB killed three motorcycle taxi drivers in the Pegunungan Bintang region, Papua Pegunungan. Eight days later, the

KKB also shot dead a Bank Papua employee in the Puncak Regency. Subsequently, the KKB shot dead four civilians in these two locations. Komnas HAM (National Commission on Human Rights) has also condemned these murders and called for the arrest of the perpetrators.

According to research conducted by the Papua Task Force of Gadjah Mada University (UGM), there were 348 cases of violence in the provinces of Papua and West Papua during the period from 2010 to March 2022. In these cases, there were 464 fatalities, with the majority or 320 victims (69%) being civilians. Additionally, there were 106 fatalities among the security forces, consisting of 72 Indonesian National Army (TNI) personnel and 34 police officers. This data was collected by a research team using mass media reports as the primary source. To ensure data accuracy, the information was cross-verified with official sources such as the security forces and local leaders. However, it should be noted that the recorded number of fatalities is likely much lower than the actual number. This is due to limitations in documenting and reporting every incident to the mass media. In fact, the serious human rights violations that occur in Papua have a context rooted in the political tensions during the unification of Papua, then known as West Irian, with Indonesia, which faced both support and opposition.

Serious human rights violations continue to occur in Papua to this day, despite the implementation of Law No. 21 of 2001 concerning Special Autonomy for Papua. This law was originally intended to fulfill a sense of justice for the people of Papua. However, efforts to resolve human rights issues have not been entirely successful. The Commander of the Indonesian National Armed Forces (TNI), Admiral Yudo Margono, then ordered a combat readiness operation in Papua, while elevating the status of the Free Papua Movement (KKB) as terrorists. However, human rights activists urge the government and TNI to stop the combat readiness operation, fearing that it may trigger a spiral of violence against civilians. Although the National Commission on Human Rights (Komnas HAM) also calls for the protection of affected civilians, there have been instances where Komnas HAM opposes attacks on the KKB. Yet, the KKB is one of the root causes of the ongoing conflict. Komnas HAM's controversial stance in assessing the KKB, not considering them a terrorist group, has received criticism from the public. Even the Vice Chairman of External Affairs of Komnas HAM, Amiruddin Al-Rahab, expressed his disappointment with the government's decision to label the KKB in Papua as terrorists (Rahel Narda Chaterine, 2021). He also reminded the State Intelligence Agency (BIN) to be cautious in labeling the Papua Armed Criminal Group (KKB) as Separatist and Terrorist Groups (KST). This differing stance has created a divergence of views between Komnas HAM and the government, leading to disagreement in handling the Papua conflict. This situation further exacerbates the situation and increases concerns among the public, as civilians become victims in the conflict in Papua.

II. METODE

The type of research conducted in this context is normative juridical research. This research examines the applicable legislation related to the issue being discussed. The method used in this research is similar to literature research, where the researcher collects and analyzes relevant literature or secondary data related to the research topic. In terms of witness and victim protection, normative juridical research will involve studying the legal regulations that govern the rights and protection of witnesses and victims. The researcher will examine laws, regulations, and relevant policies to determine the extent to which the witness and victim protection system is legally regulated (Marzuki, 2019).

This research will examine whether there are weaknesses in existing regulations and whether there is a need for changes or improvements to enhance the protection of witnesses and victims. In its analysis, the researcher can also compare with internationally recognized principles of witness and victim protection. The results of this normative juridical research can provide a deeper understanding of the legal framework governing the protection of witnesses and victims and provide recommendations for improving or enhancing the existing protection system. Thus, this research plays an important role in providing input for policymakers to enhance the protection and justice for witnesses and victims within the legal system.

III. RESULT AND DISCUSSION

Civil protection in Papua Province from Armed Criminal Groups (KKB) must receive serious attention considering the atrocities committed by the KKB, including shootings, persecution, arson, and various other forms of crimes. The KKB ruthlessly carries out killings and torture, especially against the civilian

population they encounter, often resulting in murders. Several districts in Papua Province are vulnerable to this situation. The cruel actions carried out know no territorial boundaries, so civilians are always at risk of becoming victims if there are further attacks that have caused loss of life and material damages that continue to occur from year to year. It is time for the government to put an end to the killings and ongoing terror against the Papuan civilian population by the KKB, not through discussions, but through decisive actions by the state. The state must take a firm stance because the peaceful approaches that have been taken so far have always been rejected by the KKB and other terrorist groups.

Historically, the acts of violence carried out by a group of people in Papua have had different names. The Indonesian National Police (Polri) refers to them as Armed Criminal Groups (KKB), while the Indonesian National Armed Forces (TNI) uses terms like Armed Separatist Groups (KSB) or Free Papua Movement (OPM). Essentially, they are groups of fighters seeking to separate themselves from Indonesia. One of the reasons why eradicating the Papua KKB is challenging is the tactical geographic factors, which are more difficult to overcome compared to internal factors within the KKB itself. The geographical conditions in Papua, including the existing vegetation and fauna, make the KKB more resilient in their defense compared to the pursuing forces of the TNI and Polri. The theoretical categorization of the KKB is done for several reasons, as these characteristics are inherent to the KKB. The group is categorized as a terrorist organization that, according to analysis, meets several indicators, such as employing violence as a primary strategy, rejecting negotiations, spreading terror and false propaganda, and attacking civilians. Based on these indicators, the National Commission on Human Rights (Komnas HAM), as mentioned in Article 1, Number 7 of Law Number 39 of 1999, is an independent institution with the same status as other state institutions. Komnas HAM is tasked with conducting assessment, research, education, monitoring, and mediation regarding human rights. Komnas HAM is headquartered in the capital city of the Republic of Indonesia and can establish Komnas HAM representations in other regions. The President of Indonesia has committed to addressing these serious human rights issues through Presidential Decree Number 4 of 2023 and Presidential Instruction Number 2 of 2023. The efforts to combat the KKB in Papua involve the Indonesian National Police, Indonesian National Armed Forces, and the National Counterterrorism Agency (BNPT). According to Presidential Regulation 46/2010, BNPT is the authorized agency responsible for preventing and combating terrorism in Indonesia. The public has expressed their concerns to the government, including questioning how long the state will tolerate the Armed Criminal Groups (KKB) in Papua, allowing them to continue their inhumane actions of killing and spreading terror among the local communities.

The following are the translations of Article 8, Article 71, and Article 72 of the Law on Human Rights (UU HAM):

Article 8 of UU HAM:

Protection, promotion, enforcement, and fulfillment of human rights are primarily the responsibility of the Government.

Article 71 of UU HAM:

The Government is obliged and responsible for respecting, protecting, enforcing, and promoting human rights, other legal regulations, and international laws regarding human rights accepted by the Republic of Indonesia.

Article 72 of UU HAM:

The obligations and responsibilities of the government as referred to in Article 71 include effective implementation measures in the fields of law, politics, economy, social affairs, culture, national defense and security, and other fields.

In addition to those regulations, according to Law Number 39 of 1999 concerning Human Rights, the National Commission on Human Rights also has the authority to conduct investigations into serious human rights violations through the issuance of Law Number 26 of 2000 concerning Human Rights Courts. The protection of Human Rights has also been regulated within the United Nations (UN) and has become the foundation of democratic political life. A country must be built on the principle of the rule of law to ensure the existence of monitoring and law enforcement instruments in addressing human rights violations. To protect Human Rights, international legal instruments formulated within the UN have included the protection of individual rights. Furthermore, in the context of armed conflict in Papua, human rights violations committed by Armed Criminal Groups (KKB) have resulted in numerous casualties, both among civilians and the Indonesian National Armed Forces and Police (TNI-Polri). The provisions applicable to the protection of Papua's civilian population during armed conflict are based on the 1945 Constitution, Law No. 39/1999 concerning Human Rights, and relevant international agreements on Human Rights. This is crucial in protecting the civilian population in Papua, especially in securing non-derogable rights. The protection of

Papua's civilian population in the context of conflict utilizes national legal instruments and human rights law as the legal foundation for civilians affected by the conflict.

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) is the highest legal source and serves as the foundation for respecting, protecting, and fulfilling the rights to obtain justice. The principle of equality before the law and government applies to every citizen. The regulation regarding Human Rights (HAM) is stipulated in the 1945 Constitution, particularly in Articles 27 and 28. Article 27 explains the equality of all citizens before the law. Additionally, Article 28 also regulates Human Rights, specifying details from point A to J. Article 28 specifically deals with HAM, encompassing points A to J, which explain the protection of inherent rights from birth, including:

1. Article 28A: Everyone has the right to life and the right to defend their life and existence.
2. Article 28B: (1) Everyone has the right to form a family and continue their lineage through a valid marriage. (2) Every child has the right to survival, growth, and development, as well as the right to protection from violence and discrimination.
3. Article 28C: (1) Everyone has the right to develop themselves through the fulfillment of their basic needs, the right to education, and the benefits of science, technology, arts, and culture, in order to improve their quality of life and the well-being of humanity. (2) Everyone has the right to advance themselves in the collective struggle to build their society, nation, and country.
4. Article 28D: (1) Everyone has the right to recognition, guarantees, fair legal protection, and equal treatment before the law. (2) Everyone has the right to work, receive fair and decent remuneration, and fair treatment in employment relationships. (3) Every citizen has the right to equal opportunities in governance. (4) Everyone has the right to citizenship status.
5. Article 28E: (1) Everyone is free to embrace their religion and worship according to their beliefs, choose their education and teaching, choose their occupation, choose their citizenship, choose their residence within the country's territory, and have the right to return. (2) Everyone has the right to freedom of belief, expression of thoughts and opinions, in accordance with their conscience. (3) Everyone has the right to freedom of association, assembly, and expression of opinions.
6. Article 28F: Everyone has the right to communicate and obtain information to develop their personality and social environment, as well as the right to search, acquire, choose, store, process, and convey information using all available channels.
7. Article 28G: (1) Everyone has the right to personal protection, family, honor, dignity, and property under their control, as well as the right to security and protection from the threat of fear to do or not do something that is a fundamental right. (2) Everyone has the right to be free from torture or degrading treatment and has the right to obtain a political voice on an equal basis with others.
8. Article 28H: (1) Everyone has the right to a prosperous life, both physically and mentally, to have a place to live, and to have a good and healthy environment, as well as the right to access healthcare services. (2) Everyone has the right to facilities and special treatment to obtain equal opportunities and benefits in order to achieve equality and justice. (3) Everyone has the right to social security that enables their full development as dignified human beings. (4) Everyone has the right to personal property, and such property rights cannot be arbitrarily taken over by anyone.
9. Article 28I: (1) The right to life, the right to be free from torture, the freedom of thought and conscience, the right to religion, the right to be free from slavery, the right to be recognized as a person before the law, and the right not to be subject to retroactive legal prosecution are human rights that cannot be reduced in any circumstances. (2) Everyone has the right to be free from discriminatory treatment based on any grounds and has the right to protection against such discriminatory treatment. (3) Cultural identity and the rights of traditional communities are respected in line with the development of time and civilization. (4) The protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, particularly the government. (5) In order to uphold and protect human rights in accordance with the principles of a democratic rule of law, the implementation of human rights is guaranteed, regulated, and stipulated in legislation.
10. Article 28J: (1) Every person is obliged to respect the human rights of others in the order of societal life, nationhood, and statehood. (2) In exercising their rights and freedoms, every person must adhere to limitations established by law solely for the purpose of ensuring recognition and respect for the rights and freedoms of others, and to meet fair demands in accordance with moral considerations, religious values, security, and public order in a democratic society. Civilians are those who do not participate in armed conflict and must be protected by the law.

The enforcement of protection for civilians who become victims in armed conflicts is highly important, and it requires decisive actions from the government, supported by clear legal instruments and without arbitrary

measures by the parties involved in the conflict. For example, in the case of armed conflict in Papua, the state must take decisive action until the members of the armed criminal group (KKB) surrender, and they should be held accountable through legal processes for the armed violence they have committed so far. However, if the state's decisive actions are met with deadly armed attacks by the KKB, it is not wrong for the Indonesian National Armed Forces and Police (TNI-Polri) to launch counterattacks to defend the country and protect all Indonesian citizens. On the other hand, the National Commission on Human Rights (Komnas HAM) claims that its representatives in Papua have gained communication access with the armed groups in Timika. However, Komnas HAM has not received explicit commitment from the KKB regarding their readiness for mediation efforts. Komnas HAM encourages a ceasefire if the KKB is committed to engaging in mediation efforts. Furthermore, the notion that the minimalistic approach of the state reflects tolerance towards a series of inhumane acts by the KKB in Papua should not be continued. In order to uphold the human rights and social justice for the people of Papua, the state must be present and utilize necessary force to eliminate all potential threats against them. The fact is, there have been far too many atrocities committed by the KKB in Papua.

Here are some reasons why it is difficult to eradicate the armed criminal group (KKB) in Papua, as reported from various journal sources and digital media reports:

1. Protection from local figures:
According to several sources, there are many local figures who provide protection to KKB members in indigenous areas. This allows KKB members to hide and escape when pursued by security forces.
2. Frequent use of disguise:
Brigadier General Rusdi Hartono, the Head of Public Information Bureau (Karopenmas) of the Indonesian National Police (Polri), revealed that many KKB members often disguise themselves as local residents in Papua. This disguise makes it difficult to detect them and avoid surveillance by security forces.
3. High mobility:
One of the challenging factors in combating the KKB is their high mobility. They frequently move from one location to another and blend in with the civilian population, making it difficult for law enforcement to conduct targeted attacks or arrests.

It should be noted that the information above is a summary from various sources and does not cover all aspects related to the difficulties of eradicating the KKB in Papua.

Some of the obstacles faced by the government and law enforcement in implementing the legal system related to the armed criminal group (KKB) are based on information from the Indonesian National Police (Polri) obtained from several online media and research journals.

1. Infiltration of KKB into the civilian population
KKB often enters populated areas in Papua. Difficult terrain, such as mountainous regions with various obstacles within, complicates law enforcement efforts. The resources required to track and confront the KKB must be maximized.
2. Disguise
As local residents, members of the KKB often use disguises by blending in and posing as local inhabitants. They attempt to exploit this pattern to maintain their presence in the area, which poses a challenge for law enforcement in identifying and confronting this group.

Here are some efforts made by the government to protect the people of Papua:

1. The Indonesian National Armed Forces (TNI) and the Indonesian National Police (Polri) continue to make efforts to pursue and apprehend armed criminal groups (KKB) in Papua. They ensure that there is no place for KKB in Papua. The government, through law enforcement agencies, namely the TNI and Polri, are working optimally to resolve issues related to armed criminal groups in Papua.
2. Vice President KH. Ma'ruf Amin has emphasized on several occasions the need for optimal protection, with a focus on six provinces in Papua that have dangerous conflict situations. There are six vulnerable areas in Papua, three of which are located in Central Papua, and the other three in the Papua Highlands.
3. Papua, with all its current conflicts, has become a major agenda for the government to build sustainable peace and end prolonged conflicts.
4. The Indonesian government has undertaken several peaceful approaches and discussions to resolve issues in Papua. Several presidents such as BJ Habibie, Abdurrahman Wahid (Gus Dur), Susilo Bambang Yudhoyono (SBY), and Joko Widodo (Jokowi) have taken steps in this regard. Peaceful approaches and

dialogues are prioritized to achieve a sustainable resolution. The government also focuses on infrastructure development and human resources as part of the conflict resolution in Papua.

5. The government also engages in dialogues to address various issues faced by the Papuan community, including discrimination and injustice.
6. The government, through the Ministry of Social Affairs (Kemensos), provides assistance and services to affected communities, including providing stimulus aid for Micro, Small, and Medium Enterprises (UMKM). The Ministry of Public Works and Housing (PUPR) conducts assessments of damages to social and public facilities. The Ministry of Health (Kemenkes) provides healthcare services to affected communities. The Ministry of Education, Ministry of Religious Affairs, and the Ministry of Research, Technology, and Higher Education also implement recovery programs for affected communities. In addition to these recovery measures, the government will also engage in long-term planning to build communities in Papua and West Papua, emphasizing a cultural approach.
7. The Coordinating Minister for Political, Legal, and Security Affairs (Menko Polhukam), Mahfud MD, stated that the Indonesian government will implement a new approach to resolve security issues in Papua, prioritizing "territorial operations" rather than "combat operations."

Here are the requests of the National Commission on Human Rights (Komnas HAM) regarding the handling of the conflict in Papua addressed to the government as the law enforcement authority through the Indonesian National Armed Forces (TNI) and the National Police (Polri):

1. Komnas HAM wants to inform the government that there are other issues that need attention, so that policies can be evaluated. This is related to the recommendations given to the Indonesian government during the United Nations Human Rights Council's Universal Periodic Review in March 2023.
2. Regarding the Papua issue, there are two recommendations put forward. First, the Indonesian government is expected to remain committed to addressing human rights violations in Papua and ensuring accountability for these cases. The government is also urged to respect and protect human rights in Papua, including the freedom of assembly, expression, press freedom, as well as the rights of women, minorities, and civil protection, especially for women and children. These commitments have been acknowledged by the government during the United Nations Human Rights Council sessions.

Based on Law Number 39 of 1999, there are several articles that emphasize the importance of human rights and fair protection for every individual. These articles include:

Article 3:

- (1) Every person is born free with equal dignity and rights and endowed with reason and conscience to live in society, nation, and state in a spirit of brotherhood.
- (2) Every person has the right to recognition, guarantees, protection, and fair treatment under the law and is entitled to legal certainty and equal treatment before the law.
- (3) Every person has the right to the protection of human rights and fundamental freedoms without discrimination.

Article 4:

The right to life, the right to be free from torture, the rights to personal liberty, thought, and conscience, the right to religion, the right to be free from slavery, the right to be recognized as a person and equality before the law, and the right not to be charged based on retroactive laws are inherent human rights that cannot be diminished under any circumstances and by anyone.

Article 5:

- (1) Every person is recognized as an individual who has the right to demand and receive equal treatment and protection in accordance with their human dignity before the law.
- (2) Every person has the right to fair assistance and protection from an objective and impartial court.
- (3) Every person belonging to vulnerable social groups has the right to receive treatment and protection that is specific to their circumstances.

Although the KKB groups in Papua are also civilian Papuans, they have posed a threat to national security and caused numerous casualties among other civilians. Therefore, the government has made efforts to engage in negotiations to resolve this conflict. However, in order to maintain the security and protect the human rights of other civilians, the government must take decisive action to eradicate the KKB and apprehend them for prosecution. These actions are solely aimed at ensuring security and protecting human rights, even though the author acknowledges that the KKB members are also civilian Papuans

As for the author's perspective, the ways to eradicate armed criminal groups (KKB) are as follows:

1. Intensify efforts to maximize law enforcement to capture the Armed Criminal Group (KKB) as soon as possible and bring them to trial. This is done with the aim of cleansing the land of Papua from the ongoing terror and crimes committed by the KKB. This action is important to minimize civilian casualties and promptly eradicate the group.
2. Without disregarding the principles of human rights and the right to life of the KKB group, according to the author, it is important to maximize arrests while the KKB group is still active. This is to ensure that the right to life of the KKB group is maintained before a guilty verdict is reached by the court. However, if the arrest process encounters critical resistance and results in many casualties, the government must be prepared to take responsibility and fulfill the consequences as part of its protection obligation. According to the author, in the effort to protect the right to life of many individuals, which is the struggle of the state, there are limitations to legal protection for some citizens, in accordance with Fitzgerald's theory of legal protection (Ayu Mailiza Wanzira, 2022). Fitzgerald explains that the law aims to integrate and coordinate various interests in society, where the protection of certain interests can be achieved by limiting other interests. Law Number 39 of 1999 concerning Human Rights and Law Number 26 of 2000 concerning Human Rights Courts regulate the protection of citizens, including in situations of armed conflict. These laws affirm that certain rights in the articles are non-derogable rights under any circumstances, including armed conflict. However, it must be acknowledged that the armed conflict in Papua has resulted in many casualties, including civilians. The armed conflict in Papua is caused by the actions of the Papua Armed Criminal Group (KKB) (Naufal Yudawan, 2022). The law has the highest authority in determining the human interests that need to be regulated and protected. Legal protection must go through stages, where legal protection originates from provisions and regulations given by the society, which essentially is a societal agreement to regulate behavioral relationships between members of society and individuals, as explained by R. La Porta (R. La Porta, 2000) in the *Journal of Financial Economics*. The legal protection provided by a state has a prohibitive nature and a sanction nature (R. La Porta, 2000).
3. The government, traditional leaders in Papua, and Papuan community leaders work together in the program to prevent infiltration and disguise of the KKB into the civilian population.
4. Based on historical records of governments led by various presidents, dialogue efforts have been made, but the KKB continues to carry out disturbing actions. The government has provided opportunities for negotiation for the sake of peace, but these actions have been disregarded by the KKB. Therefore, according to the author, there is a need for strict legal instruments and a legal system to capture the KKB group.

In line with the Opening of the 1945 Constitution as the source of legal and political norms, the Republic of Indonesia is a unitary state based on the rule of law and has the duty and responsibility to maintain a safe, peaceful, and prosperous life and actively participate in maintaining world peace. In achieving these goals, the government has an obligation to safeguard and uphold sovereignty and protect every citizen from threats or destructive actions, both domestically and internationally (Romli Atmasasmita, 2002). The government declares the Armed Criminal Group (KKB) in Papua as terrorists. This is based on a number of acts of violence and attacks committed by the KKB against civilians and TNI-Polri personnel. The KKB has engaged in violent actions that threaten the community and have caused many casualties, including civilians such as teachers, students, motorcycle taxi drivers, and ordinary citizens. TNI-Polri personnel have also become victims of these attacks. Respecting human rights does not mean being lenient towards the KKB in Papua. Every individual has the right to a fair trial with the presumption of innocence. Eliminating or eradicating the KKB in Papua is equivalent to harming the nation's own people. To make real efforts in eradicating terrorism, a special forces unit consisting of approximately four hundred personnel from the Regional Security Task Force (Satgas Pamrahwan) of the 315th Infantry Battalion (Yonif) Garuda has been prepared to suppress the Armed Criminal Group (KKB) designated as terrorists.

The legal protection regarding human rights in Indonesia is regulated in the Opening of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) paragraph 4, Chapter 10a (Articles 28A to 28J), the Human Rights Law, and Law Number 26 of 2000 on human rights courts (Law on Human Rights Courts) (M. Jailani, 2011). Legal protection consists of two elements, namely the principle of the rule of law and human rights

guarantees. The state has an obligation to protect human rights. The protection of human rights is carried out in three stages, namely:

1. Respect for Human Rights: The state, especially the government, is responsible for not interfering in the exercise of the rights of its citizens.
2. Protection of Human Rights: The state, especially the government, has a duty to take active measures to provide guarantees for the protection of the human rights of the Indonesian people. This means that the government must be more proactive in taking actions to prevent human rights violations committed by anyone, anywhere, especially in cases of violations committed by the Armed Criminal Group (KKB) in Papua.
3. Fulfillment of Human Rights: The state, especially the government, is obliged to take legislative, judicial, administrative, legal, and other measures to fulfill human rights (Muhammad Alim, 2001). The state is entrusted with the responsibility to guarantee the human rights of every citizen, as stated in Article 8 of the Human Rights Law: "The protection, promotion, enforcement, and fulfillment of human rights are primarily the responsibility of the government."

IV. CONCLUSION

The existing opinions indicate that the actions of the armed group causing unrest (KKB) in Papua are increasingly leaning towards terrorism. This serious crime is evident through the numerous civilian casualties who have fallen victim to the atrocities of the KKB. These actions not only threaten the state's ideology, national security, and sovereignty, but also various aspects of social, national, and governmental life. Therefore, the state has an obligation to take action to ensure that the people of Papua receive their rights and human dignity. There should be no more loss of life due to the savagery of the KKB in Papua. Turning a blind eye to the actions of the KKB can be considered a grave mistake of the state. The armed conflict in Papua will become an endless cycle if the state does not take decisive action. Although the government has attempted peaceful approaches with the KKB, no successful common ground has been reached because the KKB has started engaging in actions that fall under the category of terrorism, such as murdering teachers, burning schools, and intimidating communities. These activities have veered towards terrorism as they generate a sense of insecurity and excessive fear among the people. The importance of finding a balance between firm action and respect for human rights cannot be ignored. It requires extremely decisive actions in the form of maximum arrests of KKB groups to protect the human rights of the civilian population in Papua, without disregarding the human rights of the KKB group. This is necessary due to the excessive fear experienced by the people and the questionable sense of security there. Civilian casualties caused by the KKB continue to increase in various regions. When peaceful approaches and efforts to improve welfare respond to the brutal acts of the KKB, the state cannot remain silent. The state must not be defeated by the killers and terrorists who have claimed numerous victims and caused distress among the people in Papua. Since Papua is part of Indonesia, the state must be able to protect and provide a sense of security for all its people there.

V. REFERENCES

- Alim, Muhammad. (2001). *Democracy and Human Rights in the Constitution of Medina and the 1945 Constitution*. Yogyakarta: UII Press.
- Anugerah, Boy. (2019). Papua: Unraveling the Conflict and Formulating Solutions. *Journal of Lemhannas RI Studies*. Edition 40.
- Atmasasmita, Romli. (2002). *Issues of Terrorism Regulation and the Indonesian Perspective*. 1st Edition. Republic of Indonesia Printing Office.
- Chaterine, Rahel Narda. (2021). Deputy Chairman of the National Commission on Human Rights Disappointed with the Government's Designation of KKB in Papua as Terrorists. <https://nasional.kompas.com/read/2021/04/29/18353051/wakil-ketua-komnas-ham-kecewa-pemerintah-tetapkan-kkb-di-papua-sebagai>.
- Darumurti, KD. (2016). *Discretion in Legal Theory Study*. Genta Publishing.

- Effendi, T. and Panjaitan, Ananda CD. (2021). Consequences of the Designation of Papua's Armed Criminal Group (KKB) as Terrorists According to Criminal Law. *RechtIdee*, Vol. 16, No. 2, December 2021.
- Iriansyah, Wahyu SB. (2021). Raising the Morning Star Flag in Papua Reviewed from Article 106 of the Indonesian Criminal Code (KUHP). Faculty of Law, Islamic University of Malang. http://repository.unisma.ac.id/bitstream/handle/123456789/4054/S1_FH_21701021060_WAHYU%20SATRIA%20BUDI%20IRIANSYAH.pdf?sequence=2&isAllowed=y
- Jailani, M. (2011). State Responsibility in Providing Protection for the Rights of Victims of Gross Human Rights Violations in Indonesia. Faculty of Law, UNISBA. Vol. XIII. No. 1, March 2011.
- Marzuki. (2019). *Legal Research*. Kencana Prenada Media Group.
- Porta, R. La. (2000). Investor Protection and Corporate Governance. *Journal of Financial Economics*, Vol. 58.
- Wanzira, Ayu Mailiza. (2022). Government Protection of Human Rights Violations in Papua. Faculty of Sharia and Law, Ar-Raniry State Islamic University, Banda Aceh. <https://repository.ar-raniry.ac.id/25518/1/Ayu%20Mailiza%20Wanzira%2C%20180105067%2C%20FSH%2C%20HTN.pdf>
- Yanuarti, Sri. (2012). Poverty and Conflict in Papua Amid Abundant Resources. Vol. 9. No. 1. *Journal of Political Research*. <https://ejournal.politik.lipi.go.id/index.php/jpp/article/view/446>
- Yudawan, Naufal. (2022). Legal Protection for Civilian (Papua) in Non-International Armed Conflict Perspective of Humanitarian Law. University of Islam Malang. Vol. 28. No. 8.