



RESEARCH ARTICLE

**THE INTRICATE JUSTICE OF POVERTY:
A CASE OF THE LAND OF GOLD IN
INDONESIAN PAPUA**

Hidayatulloh Hidayatulloh¹, Éva Erdős², Miklós Szabó³

^{1,2} Department of Financial Law, Faculty of Law, University of
Miskolc, Hungary

³ Department of Jurisprudence and Sociology of Law, Faculty of
Law, University of Miskolc, Hungary

✉ hidayatulloh87@uinjkt.ac.id

Submitted: June 6, 2022 **Revised:** Dec 12, 2022 **Accepted:** Dec 16, 2022

ABSTRACT

Natural wealth does not guarantee the welfare of its inhabitants. This case occurred in Papua, the easternmost region of Indonesia, which won the title of the poorest province from 2017 to 2021. Freeport McMoRan, an American mining corporation operating since 1967, failed to present a positive impact on the welfare of the Papuan people despite having dredged a lot of money from Grasberg, one of the largest reserves of gold and copper in the world. This paper reviews

the portrait of abject poverty in Papua and analyzes its problems with the rights and justice approach. In conclusion, this paper finds that poverty for the Papuan people is very complicated because it is related to the historical roots of colonialism, capitalism, and armed conflicts. The special autonomy granted by the Indonesian government for twenty years has not been able to provide for people's welfare due to violent conflicts, human rights violations, natural destruction, and corruption. The Indonesian government is obliged to realize justice in the economic, political, and cultural dimensions for the welfare of the Papuan people.

Keywords: *Indonesian Papua, Rights and Justice, Poverty*

TABLE OF CONTENTS

ABSTRACT	557
TABLE OF CONTENTS	559
INTRODUCTION	560
A RICH LAND OF GOLD	563
PAPUAN POVERTY FACTS	565
RIGHTS & JUSTICE FOR PEOPLE IN RICH NATURAL RESOURCES	569
CONCLUSION	577
REFERENCES	578



Copyright © 2022 by Author(s)

This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License. **All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.**

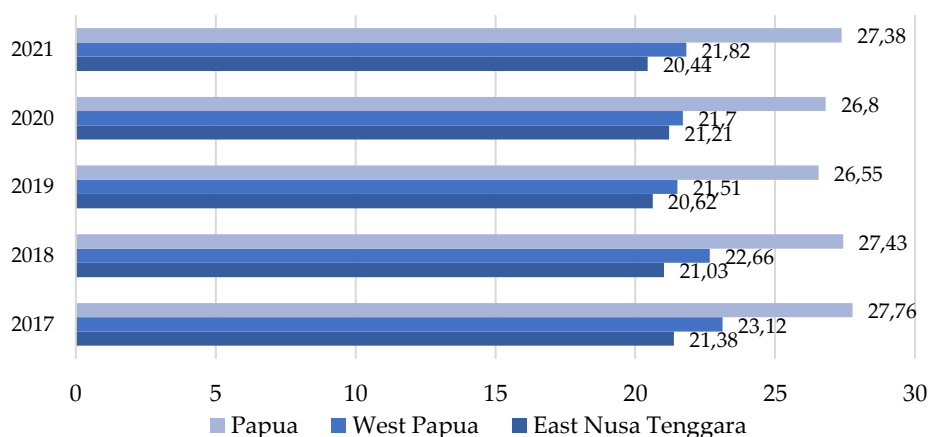
HOW TO CITE:

Hidayatulloh, H., Erdős, Éva, & Szabó, M. (2022). The Intricate Justice of Poverty: A Case of The Land of Gold in Papua Indonesia. *JILS (Journal of Indonesian Legal Studies)*, 7(2), 557-584.
<https://doi.org/10.15294/jils.v7i2.58030>

INTRODUCTION

THE CENTRAL STATISTICS AGENCY released the findings of the poorest provinces in Indonesia. This official government agency noted that the province of Papua is the region that has the highest poverty rate nationally. The number of poor people increased by 24.05 thousand people to 944.49 thousand people in September 2021 compared to March 2021. The percentage of poor people in the province increased by 0.52 percentage points to 27.38% in September 2021 from March 2021. Regrettably, 1 in 4 people in Indonesia's easternmost province lives below the poverty line.¹ However, Papua is not only the most impoverished Indonesian regions in 2021 but also during five recent years. Please have a look at a bar graph below.

TABLE 1. Three provinces with the highest percentage of poor people during 2017-2021 in Indonesia



Source: The Indonesian Central Statistics Agency

¹ The Indonesian Central Statistics Agency, "POVERTY AND UNEQUALITY," 25 May 2022, <https://www.bps.go.id/indicator/23/192/1/persentase-penduduk-miskin-p0-menurut-provinsi-dan-daerah.html>

The clustered bar shows the percentage of the impoverished folks for the top three provinces in Indonesia throughout 2017 to 2021. Over the whole period, Papua consistently was the sublime rate of poor people among other provinces. The percentage of the poor population is constantly above twenty-six percent to twenty-seven percent. The second and third positions in the last five years have remained stable, achieved by West Papua and East Nusa Tenggara.²

Moreover, almost all the achievements of the Papua and West Papua Sustainable Development Goals (SDGs) indicators are worse than the national achievements. Papua has a poverty rate of 16.94% and an extreme poverty rate of 26.64% in 2020. Meanwhile, West Papua has a poverty rate of 13.35% and an excessive poverty rate of 21.37% in 2020. These two provinces are the province with the highest rates of poverty and extreme poverty in Indonesia. Besides poverty, education indicators in Papua and West Papua are below the national average. In 2019, 21.8% of the Papuan population were illiterate, and high school dropout rates reached 19.56% at the age of 7-12 years, 24.47% at the age of 13-15 years, and 55.86 % at the age of 16-18 years.³

Papua and West Papua were originally a province called Irian Jaya from 1973-to 1999. After the 1998 political reform, Indonesia passed Law Number 45 of 1999 to divide Papua Island into the West Irian Jaya and Papua which intended to unravel sectarian conflicts between the Indonesian government and the West Papua nationalists.

² The Indonesian Central Statistics Agency, "POVERTY AND UNEQUALITY," 25 May 2022, <https://www.bps.go.id/indicator/23/192/1/persentase-penduduk-miskin-p0-menurut-provinsi-dan-daerah.html>.

³ Secretariat of the Vice President of the Republic of Indonesia. (2019). *Indikator Kesejahteraan Sosial Utama Provinsi Papua dan Papua Barat*. <https://www.wapresri.go.id/zoobicon/2021/06/20210217-Buku-Indikator-Kesejahteraan-Sosial-Utama-Provinsi-Papua-dan-Papua-Barat-1.pdf>.

It aimed to equalize the economy as well.⁴ However, due to public protests, it was greatly tough to be implemented until 2003 during the presidency of Megawati Soekarnoputri. In 2007, the government renamed it West Papua Province until now.⁵

The fact of poverty in Papua is an anomaly with the existence of the largest gold mining in Indonesia, even the world. Since its discovery in 1988, the Freeport's Grasberg mine in Papua has been a major source of the world's copper and gold. It is also one of the world's richest mining operations.⁶ The transnational mining company Freeport-McMoRan Copper and Gold, through its subsidiary PT Freeport Indonesia, came to operate the biggest gold mine and lowest extraction-price copper mine in the world in the isolated mountains of the Indonesian province of West Papua. It was the first foreign company to sign a contract with Indonesian government in 1967.⁷

⁴ Nino Viartasiwi, *The politics of history in West Papua-Indonesia conflict*. 26 ASIAN JOURNAL OF POLITICAL SCIENCE (2018): 141-159.

⁵ Boy Anugerah, *Papua: Mengurai Konflik dan Merumuskan Solusi*, 7 JURNAL LEMHANNAS RI (2019): 51-65. See also Pemerintah Provinsi Papua Barat, "WILAYAH PAPUA BARAT," 25 May 2022, <https://papuabarat.bpk.go.id/wilayah-pemeriksaan/provinsi-papua-barat/>

⁶ Ballard, C., & Banks, G. (2009). Between a Rock and a Hard Place: Corporate Strategy at the Freeport Mine in Papua, 2001–2006 in Resosudarmo, B. P., & Jotzo, F. (Eds.). (2009). *Working with Nature Against Poverty: Development, Resources and the Environment in Eastern Indonesia*. Singapore: Institute of Southeast Asian Studies, 147. https://www.researchgate.net/publication/301546436_Working_with_nature_against_poverty_development_resources_and_the_environment_in_eastern_Indonesia. See also Dewantara, A. M., & Larasati, D. K, *Implementation of Progressive Law in Enforcement of Environmental Law in Indonesia: The Current Problems and Future Challenges*. 1 INDONESIA JOURNAL OF ENVIRONMENTAL LAW AND SUSTAINABLE DEVELOPMENT (2022): 237-264.

⁷ D. Leith, *Freeport and the Suharto regime, 1965-1998*. 14 THE CONTEMPORARY PACIFIC (2002): 69-100, <http://doi.org/10.1353/cp.2002.0023>.

This paper aims to analyze the issue of poverty in Indonesian Papua based on the legal theoretical framework of justice. It will explore problematic questions why they are trapped in poverty for years, in fact, their land is fraught with copper and gold which make a lot of money every year. Moreover, the next inquiry will be how to provide justice for them in order to achieve a prosperous life and stay away from poverty. The paper will investigate the topic by examining various references with a legal approach.

A RICH LAND OF GOLD

PAPUA IS THE OFFICIAL name of the province since 1999 due to the enlarging tension for independence and the aim to appease conflict from people of the very east end island of Indonesia.⁸ It had formerly several names such as New Guinea or Netherlands/Dutch New Guinea (until 1962), Irian Barat since 1962 after Indonesia's gaining of control from the Dutch. Soeharto, the second president of Indonesia, changed the name as Irian Barat in 1973 that remained until 1999.⁹

Papua which has total area 420,540 km was divided into two provinces in 2004 by the Indonesian government, the eastern part still using the name Papua while the western part became West Irian Jaya which is now the Province of West Papua. Indigenous ethnic groups in Papua consist of 255 tribes, each with a different language.¹⁰ Papua folks become mostly involved in farming, fishing, and forestry. They produce rice as the main food plant and other crops such as cassava,

⁸ Elmslie, J. (2003). *Irian Jaya under the gun: Indonesian economic development versus West Papuan nationalism*. University of Hawaii Press, 91.

⁹ Dickie, R. B., & Layman, T. A. (1988). *Foreign Investment and Government Policy in the Third World*. Springer, 22.

¹⁰ Pemerintah Provinsi Papua, "Sekilas Papua," 25 May 2022, <https://www.papua.go.id/view-detail-page-254/sekilas-papua-.html>

sweet potatoes, soybeans, corn (*maize*), green beans, and peanuts (*groundnuts*). Besides, palm oil, cocoa, and nutmeg are other important farm products. Papua's fisheries yield assorted finfish, shrimp, oysters and other shellfish, sea cucumbers, and seaweed while the forests produce timber and copal (varnish resin). All farming activities bolster a minor manufacturing field, the main products of which is fraught with processed foods, lumber, wooden furniture, and other wooden goods.¹¹

Papua's greatest natural wealth is gold in Grasberg mine which was discovered in Jayawijaya Mountain glaciers by Dutch colonials in the mid-1930s. Mining operations began in 1972 but the mine was mostly runout by the mid-1980s. Furthermore, the mining activities were energetic when PT Freeport began exploring supplementary deposits in 1988. The Grasberg mine is well-known as the biggest and most profitable gold producing mine in existence since it estimated to have \$40 billion in gold ore reserves.¹² Unfortunately, the area of mining hereinafter caused the environmental bad impact on community health and sources of income. National and international society mostly concern on deforestation and pollution, flooding, and acid rock drainage that can damage ecosystems and the survival of humans and other living creatures in the future.¹³

With operations stretching from the Timika Lowlands to the Tembagapura Highlands, the Freeport's mines in Grasberg minerals

¹¹ Virginia Gorlinski, "Papua Province, Indonesia," 1 June 2022, Britannica.com, <https://www.britannica.com/place/Papua>

¹² Mining Digital Magazine, "Grasberg: The World's Largest Gold Mine," May 17, 2020, <https://miningdigital.com/smart-mining/grasberg-worlds-largest-gold-mine>

¹³ WWF, "Freeport Mine," 1 June 2022, https://wwf.panda.org/discover/knowledge_hub/where_we_work/new_guinea_forests/problems_forests_new_guinea/mining_new_guinea/papua_freeport_mine/

district, Papua – Indonesia is one of the world’s largest copper and gold deposits. The company is presently mining the final stage of the Grasberg open pit, which contains high copper and gold ore grades. Besides, it has been working on several projects in the Grasberg minerals district related to the development of its large-scale, long-lived, high-grade underground mines. In the future, these underground mines are prospected to yield large-scale quantities of copper and gold after the transition from the Grasberg open pit.¹⁴

PAPUAN POVERTY FACTS

PT FREEPORT INDONESIA as a gold and copper mining company in Papua absorbs a workforce of 28,281 people who are divided into direct workers and contractors. The company's direct employees are 6,113 workers consisting of 3,446 people (56.4%) non-Papuans, 2,522 people (41.2%) Papuans, and 145 people (2.4%) foreigners. As a form of gender diversity, the company has 456 female workers (7.20%). The company includes all workers in the National Health Insurance Program in addition to other health benefits. Moreover, the company also created a Savings Plan Program to provide additional benefits in old age apart from the Freeport Indonesia Pension Fund, the Old Age Security Program, and BPJS Employment.¹⁵

In terms of financial contributions to the Government of Indonesia, PT Freeport Indonesia has contributed to local and national development. By 2022, the company has invested US\$18 billion, including US\$11 billion for the Underground Development.

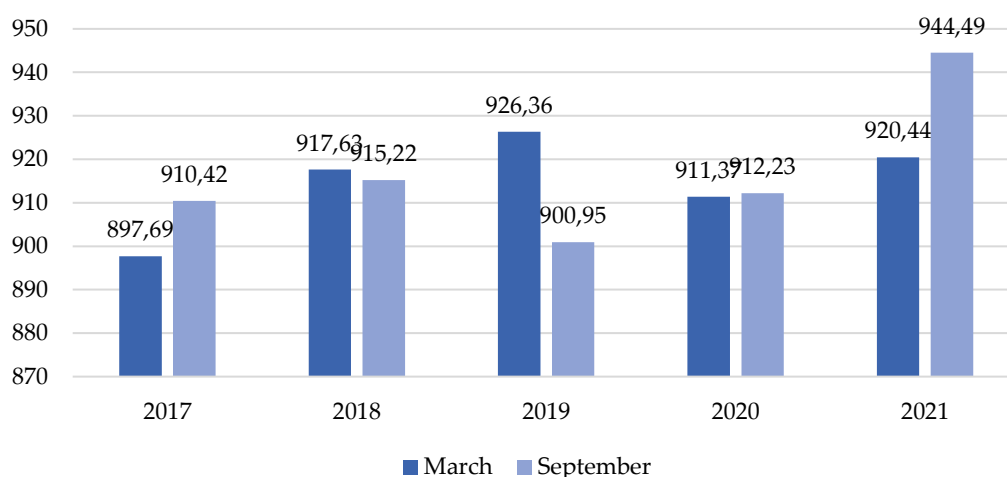
¹⁴ PT Freeport Indonesia, “Our Project Area: Forging Cooperation, Ensuring Sustainable Development,” <https://ptfi.co.id/en/our-operation-areas>

¹⁵ PT. Freeport Indonesia, “Fact Sheet: Human Resources,” 2022, <https://ptfi.co.id/site/uploads/images/628461e50a339-ketenagakerjaan2022.pdf>

Besides, it contributed to the National Gross Domestic Product with direct and indirect benefits from 1992-to 2021. The lineal benefits consisting of taxes, royalties, dividends, fees, and other payments are US\$23.1 billion, and the indirect benefits consisting of employee payroll, purchase of domestic goods, community development, local development, and domestic investment are US\$53.1 billion.¹⁶

However, it is a surprising fact that the natural wealth in the form of gold and copper owned by the land of Papua does not support the welfare of its inhabitants. The following statistical data sourced from the Indonesian Central Statistics Agency show that the number of poor people and the percentage of poverty in Papua is still very high, even the highest in Indonesia.

TABLE 2. Number of Poor People (Thousand People) in Papua, Indonesia 2017-2021



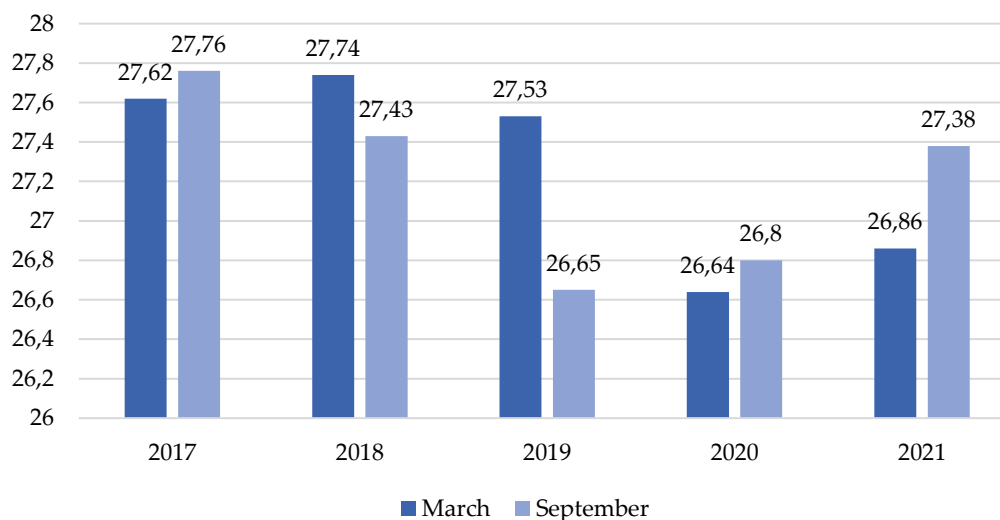
Source: The Indonesian Central Statistics Agency

¹⁶ PT. Freeport Indonesia, "Fact Sheet: Financial Contributions," 2022, <https://ptfi.co.id/site/uploads/images/62845f7c48e05-kontribusi-2022.pdf>

The bar chart describes the number of impoverished persons in Papua within recent five years. Overall, the number of poor people during 2017 to 2021 appears to be at an average of nine hundred thousand people and tends to increase every year. The highest number of Papuans who suffered poverty happened in September 2021 with an amount of 944.490 persons. It raised significantly when compared to the data in March 2021. However, the data in March 2019 showed the poverty reduction compared to the data in September 2019 although the poorness escalated crucially until the end of September 2021.¹⁷

Although the previous bar chart shows an increase in the number of poor people in Papua in the last five years, the following data shows that the percentage of the population in poverty in this easternmost region of Indonesia has decreased. However, Papua's status as the poorest province in Indonesia has persisted in the last five years.

¹⁷ This bar is processed from the Indonesian Central Statistics Agency which was downloaded through the official website <https://www.bps.go.id/indicator/23/185/1/jumlah-penduduk-miskin-ribu-jiwa-menurut-provinsi-dan-daerah.html>.

TABLE 3. Percentage of Poor Population in Papua, Indonesia 2017-2021

Source: *The Indonesian Central Statistics Agency*

The bar chart compares the percentage of poor population in Papua, Indonesia throughout 2017 to 2021. Overall, the average percentage of poverty has been at twenty-seven percent over the last five years. The poverty percentage remained stable for three years and began to decline since September 2019 to March 2021. However, it boosted slowly in March to September 2021.¹⁸

In line with the poverty level, Papua is an Indonesian region with the lowest Human Development Index among other provinces. For example, Papua's HDI figure is 60.62 in 2021 and was 60.44 in the previous year. This score is lower than the national average score of 72.29 in 2021 and 71.94 in the previous year.¹⁹ The HDI briefly

¹⁸ The Indonesian Central Statistics Agency, "Percentage of Poor Population," 20 May 2022, <https://www.bps.go.id/indicator/23/192/2/percentage-of-poor-population-p0-by-province-and-area.html>

¹⁹ The Indonesian Central Statistics Agency, "Human Development Index by Province," 20 May 2022, <https://www.bps.go.id/indicator/26/494/1/-metode-baru-indeks-pembangunan-manusia-menurut-provinsi.html>

describes the average achievements in the key dimensions of human development. The three basic dimensions that make up the HDI are long and healthy life, knowledge, and a decent standard of living. It is a significant indicator to measure success in efforts to build the quality of human life in the community/population.²⁰

RIGHTS & JUSTICE FOR PEOPLE IN RICH NATURAL RESOURCES

FREEMPORT'S OPERATION of natural resources must have benefited Papua and its people plentifully and resulted economic and human development. However, during the New Order period in 1967-1998, the Freeport taxes mostly sent to Jakarta and the province luxuriated measly.²¹ Unfortunately, most indigenous industries and enterprises could not reach the advantages of the Freeport's investments. The mining company has created overwhelming wealth and glory for itself, the government and local elites, and the United States and Indonesian power brokers. On the contrary, it was unsuccessful to encourage economic growth, industrial and technical advancement, or energetic local commercial markets.²²

The presence of the American mining commercial business, Freeport McMoRan, in Papua was not just a business and investment affair. However, it was even more complex due to its role in the outsized political issue. Freeport and the United States played a

²⁰ UNDP, Human Development Index, 13 June 2022, <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>

²¹ Emmerson, D.K. (2005). "What is Indonesia?" in J. Bresnan (ed.), *Indonesia: The Great Transition*, Maryland: Rowman & Littlefield Publishers, 7-73.

²² Guinness, P. (1994), "Local Society and Culture," in H. Hill (eds.), *Indonesia's New Order: The Dynamics of Socio-Economic Transformation*. Honolulu: University of Hawaii Press, 267-304.

significant role in the devolution of the authority of the Dutch over West Papua in the 1960s. Moreover, Freeport, which has an exclusive contract with Indonesia in exploration, mining, and colonization, acted as an intermediary for the interests of the United States in Southeast Asia. Badly, the company adopted a militaristic and capitalistic approach to extract natural wealth of Papuan land.²³ Therefore, the initial aim of exploring gold and copper mines in Papua was not for the welfare of the people.

One of the sad stories happened to the Amungme and Kamoro, the original indigenous landowners of the areas that now comprise Freeport's copper and gold mining operations and infrastructure in the Timika area of Papua. They were marginalized and experienced discrimination due to mining activities. Company's confiscation, occupation, and expropriation of their lands and natural resources has destroyed local communities' economies and livelihoods and caused the internal displacement of entire villages.²⁴

The unfortunate events in Amungme and Kamoro are bad examples of how gold and copper mining causes wicked problems for residents of the mining area. From the investment side, mining companies generate income for the state, for instance, through taxes and other levies. In contrast, the humanitarian side shows that state permits for mining companies worsen the quality of life through marginalization, discrimination, and injustice for residents.

Furthermore, poverty data in Papua shows that the presence of gold and copper mining companies does not create prosperity and

²³ V. Kusumaryati, V. *Freeport and the States: Politics of Corporations and Contemporary Colonialism in West Papua*. 63 *COMPARATIVE STUDIES IN SOCIETY AND HISTORY* (2021): 881-910.

²⁴ Cultural Survival, "The Amungme, Kamoro & Freeport: How Indigenous Papuans Have Resisted the World's Largest Gold and Copper Mine," 1 June 2022, <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/amungme-kamoro-freeport-how-indigenous-papuans-have>

economic justice for all Papuans. The millions of dollars generated from the land of Papua cannot eliminate the poverty and misery of the majority of the indigenous population. In fact, during the last five years (2017-2021), the Papua region was the poorest province of Indonesia compared to thirty-three other provinces. Data from the Central Statistics Agency, the official Indonesian government agency, shows this astonishing fact.

The Papuan people are obliged to get rights and justice for the natural wealth on their land. The right to equal attention and respect is fundamental to human dignity and a fair society. Ronald Dworkin said that rights are trumps.²⁵ The United Nations has accommodated the struggle for the rights of indigenous peoples in the United Nations Declaration on the Rights of Indigenous Peoples in 2007. This declaration, the most comprehensive international instrument on the rights of indigenous peoples, encourages the struggle for political, economic, health, education, and welfare rights. for indigenous peoples around the world.²⁶

Indigenous sovereignty is not free of charge. The spirit of struggle for political, economic, welfare, and other rights is an endless struggle for them. Instruments of national and international law, such as the United Nations Declaration, only serve as a protector and impetus for the battle for their rights.²⁷ This declaration required a lot of time and effort in its formulation after a struggle for 20 years. The result might only be a declaration as a non-legally binding

²⁵ Raymond Wacks (2006), *Philosophy of Law: A Very Short Introduction*, Oxford University Press, 56.

²⁶ United Nations, "United Nations Declaration on the Rights of Indigenous Peoples," http://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

²⁷ S. Wiessner, *Indigenous Sovereignty: Reassessment in Light of the UN Declaration on the Rights of Indigenous People*. 41 *VANDERBILT JOURNAL OF TRANSNATIONAL LAW* (2008): 1141-1176

instrument, but it is worthy for several reasons. First, the Declaration is extremely important texts since it is based on the contemporary human rights framework that will be the future next instruments for various international bodies such as World Intellectual Property Organization (WIPO) and UN Educational, Scientific, and Cultural Organization (UNESCO). Second, the Declaration is the feasible description of the recognition of collective rights without the abolishment of individual rights. Besides, the firm strengthening of collective rights is vital for the development of a truly global understanding of human rights values. Third, the Declaration is one of the first official universal affirmations on the rights of indigenous society under international law.²⁸

The issue of justice is also an interesting topic in the discussion of poverty in Papua. John Rawls, an American philosopher, introduced a theory of justice as a fairness that encourages equal basic liberties, equality of chance, and promoting the maximum benefit to the least profitable members of community in any case where inequalities may occur. He mentioned the two principles of justice. First, everyone has an equal right to the most extensive scheme of equal basis liberties with a similar scheme of liberties for others. Second, social and economic inequalities are to be arranged so that they are both reasonably expected to be to everyone's advantage and attached to positions and offices open to all. Moreover, he also proposed the distributive justice which depends on how the state as the highest institutions allocates total income, wages, and other income plus transfers to the society. Most importantly, taxation is an example of levies that not only to raise revenue but also gradually and continually to correct the distribution of wealth and to prevent

²⁸ J. Gilbert, *Indigenous Rights in the Making: The United Nations Declaration on the Rights of Indigenous Peoples*. 14 INTERNATIONAL JOURNAL ON MINORITY AND GROUP RIGHTS (2007): 207-230, <https://doi.org/10.1163/138548707X208818>.

concentrations of power detrimental to the fair value of political liberty and fair equality of opportunity.²⁹ When the Indonesian government levied taxes to Freeport and distributed wealth to Papua citizen is the example of principle of the distributive justice as Rawls' theory.

The discussion of justice issues, more specifically, in the context of events in Papua can be analyzed with a social justice approach. Social justice is the fair distribution of goods, services, rights, and obligations. The meaning of social justice is not absolute equality, but every citizen gets basic needs, impartial freedom, and economic and political access to natural resources.³⁰ Even more interesting, David Hume presented an illustration of distributing cakes at a birthday party. Everyone present claims to be entitled to a share of the cake. If there are eight people, then the distribution of the cake is that each person gets one-eighth of the cake. However, if two guests arrive, each person's entitlement will automatically be reduced to a tenth of the cake. Although everyone has the same rights to the cake, the share that everyone gets depends on how strongly someone puts pressure on his rights. David Hume asserted that competition for limited goods requires setting a balance between competing claims.³¹ Using the analogy of a birthday cake, the natural wealth in Papua is a dish for local people. The Indonesian government invited the Freeport company to enjoy its natural wealth as a gold and copper mine manager because it has human and capital resources. Then there is

²⁹ Rawls, J. (1999). *A Theory of Justice* (a revised edition). Massachusetts, Harvard University Press, 52.

³⁰ Jimenez, J., Pasztor, E. M., Chambers, R. M., & Fujii, C. P. (2014). *Social Policy and Social Change: Toward the Creation of Social and Economic Justice*. California: Sage Publications, 7.

³¹ Cohen, R. L. (Ed.). (1986). *Justice: Views from the Social Sciences*. New York: Plenum Press, 14-15.

competition for limited natural resources between residents and mining companies.

According to Kylie McKenna, the issue of injustice in Papua is not as simple as imagined. It cannot be dissociated from the role of the Freeport company and the interests of the United States towards Indonesia during the Cold War with the Soviet Union. Papua Province became part of the territory of the Republic of Indonesia after the armed conflict and Indonesia's tough diplomacy supported by the United States against the Dutch. Furthermore, the second President of Indonesia, Suharto, agreed to a Contract of Work with Freeport to explore for gold and copper as an effort to gain support from the United States in the early days of his administration after the fall of Soekarno, Indonesia's first president. Indigenous Papuans consider that the cooperation contract between the Indonesian government and Freeport is without Papuans. Most of them, especially the Free Papua Movement fighters, think that the Indonesian government and Freeport are the new colonial occupiers. Protests, violence, discrimination, and poverty have been broad features of Papuans for decades.³²

In realizing justice, Nancy Fraser introduced the three-dimensional theory of justice as a strategy to understand the problem framework. The three are the political dimension of representation, the economic dimension of distribution, and the cultural dimension of recognition. Restrictions on the right to participate in public policies and social interactions are the main problem of injustice in the political aspect. Everyone has rights to speak up his and her political ideas freely. Meanwhile, injustice in the economic dimension can occur due to the disconnection of access to resources as the necessities of life for definite people or groups of people. Fair and equal

³² McKenna, K. (2016). *Corporate Social Responsibility and Natural Resource Conflict*. New York: Routledge, 43-60.

opportunities for everyone can eliminate distributive injustice or maldistribution. Inequality or misrecognition is an injustice in the cultural dimension that can be prevented by acknowledging the cultural values of the community to achieve equality and respect.³³

In order to offer justice, political economic and cultural dimensions, Indonesian government issued many legal policies and regulations for Papua. For instance, Law number 21 of 2001 on Special Autonomy for Papua and Government Regulation in Lieu of Law Number 1 of 2008 in lieu of Law Number 1 of 2001. It designed to create peace and economic prosperity for the Papuan people by giving a big chance and freedom for local government to maximize natural wealth and local revenue.³⁴ However, many Papuans expressed dissatisfaction with the autonomy policy for some reasons. First, the extensive deforestation reached over 60,300 hectares per year. Next, mining companies exploit forests and customary lands so that residents cannot enjoy natural forest products for their daily needs. Then, local communities experience physical and psychological violence due to conflicts with mining company security, the police, and the army.³⁵

The autonomy policy given by the Indonesian government has not been entirely successful for the welfare of the Papuan people. Law Number 21 of 2001 does not have technical regulations that regulate in detail as government and regional regulations. Besides, protection and enforcement of the law were shockingly poor due to several cases

³³ Fraser, N. (2009). *Scales of Justice: Reimagining Political Space in a Globalizing World* (Vol. 31). New York: Columbia University Press, 16-18.

³⁴ Nur Rohim Yunus, *Optimalisasi Otonomi Khusus Papua dalam Peningkatan Kesadaran Hukum Masyarakat Guna Meredam Konflik dan Kekerasan*. 8 JURNAL FIAT JUSTISIA (2014): 80-97.

³⁵ Keliat, A., Warsono, H., & Kismartini, K, *Response of People in Tanah Papua in Assessing Special Autonomy as a Challenge and Achievement*. 11 JURNAL ADMINISTRASI PUBLIK: PUBLIC ADMINISTRATION JOURNAL (2021): 54-68,

of human rights violations such as the 2003 Wamena case, the 2004 Puncak Jaya case, the 2005 Filep Karma case, and the 2006 Abepura case, and others. Moreover, the division of territory created social conflicts between Papuan elites and constructed an ineffective government administration. Furthermore, many responsible human resources for implementing special autonomy were incompetent and behaviorally corrupt.³⁶ The complex culture of corruption that existed in the mining business operations occurred among political elites, traders, and companies. In the Freeport case, suspected corrupt behaviors happened in the mining business permit process, concentrate export permit, smelter construction, and share divestment. The latest affair in 2020 was the request for shares by political elites who are also businessmen in divesting Freeport's shares process to the Indonesian government.³⁷

After 20 years of implementation, the government decided to amend Law number 21 of 2001 to accommodate the affirmation policy which consists of the main frameworks such as affirmation of politics, affirmation of economics, and the improvement of good governance.³⁸ Besides, this amendment is expected to be following the concept of the rule of law, namely the formation of laws aimed at the common good of society as a whole. Theoretically, the rule of law comes up from human nature because all people and all nations demand the rule of justice through law. More importantly, the rule of

³⁶ Mutaqin, A, *Otonomi Khusus Papua Sebuah Upaya Merespon Konflik Dan Aspirasi Kemerdekaan Papua*. 4 POLITIKA: JURNAL ILMU POLITIK UNDIP (2013): 5-18,

³⁷ Riyadi, B. S., & Mustofa, M, *Corruption Culture on Managing Natural Resources: The Case Political Crime "Papa asking Stock of PT. Freeport Indonesia*, 9 INTERNATIONAL JOURNAL OF CRIMINOLOGY AND SOCIOLOGY (2020): 26-36.

³⁸ Office of Assistant to Deputy Cabinet Secretary for State Documents & Translation, "Law on Special Autonomy in Papua is Commitment to Bring Welfare for People: Minister," 6 June 2022, <https://setkab.go.id/en/law-on-special-autonomy-in-papua-is-commitment-to-bring-welfare-for-people-minister/>

law is so valuable since it can secure justice by preventing despotism and cruelty. The struggle of rule of law against tyrannical and despotic government takes place in every human society when those with authority aim to broaden their discretion, and their subjects refuse.³⁹

To support Papuans and due to public attention, Freeport realized the importance of Corporate Social Responsibility for Papuans by establishing the Amungme and Kamoro Community Empowerment Foundation (YPMAC). Freeport has supported the development of basic infrastructure in the Mimika Regency and has improved the quality of life of local communities. The company has also guided revolving fund assistance for residents for fisheries, livestock, and agriculture businesses. The company and YPMAC also established two hospitals to treat and prevent diseases in the surrounding community.⁴⁰ However, the people of Mimika Regency, which is the primary spot for Freeport's corporate social responsibility activities, have not yet received maximum benefits. Several bad case records occurred as children dropping out of school, unemployment, and malaria cases in the Mimika Regency area.⁴¹ YPMAC, the institution responsible for Freeport's social responsibility activities, encountered obstacles such as social dynamics, geographical and demographic conditions, limited facilities and infrastructure, and cultural differences between immigrants and natives. Even more

³⁹ Silkenat, J. R., Hickey, J. E., & Barenboim, P. (Eds.). (2014). *The Legal Doctrines of the Rule of Law and the Legal State (Rechtsstaat)* (Vol. 38). Heidelberg: Springer, 3-14.

⁴⁰ PT. Freeport Indonesia, "Memberdayakan Masyarakat, Melestarikan Kebersamaan," 6 June 2022, <https://ptfi.co.id/id/csr>

⁴¹ Renyaan, B. M. S., Mantiri, M., & Kasenda, V, *Efektivitas Corporate Social Responsibility (CSR) PT. Freeport dalam Meningkatkan Pembangunan di Kabupaten Mimika Provinsi Papua*. 3 JURNAL EKSEKUTIF (2019) <https://ejournal.unsrat.ac.id/index.php/jurnaleksektif/article/view/28163>.

problematic, YPMAK faced the availability of human resources and uncertain security issues.⁴²

CONCLUSION

A theory of justice as fairness, introduced by John Rawls, proposed equality of rights and social welfare, especially for marginal groups such as Papuans. Freeport taxes must be benefited to the fullest for the welfare of citizens, not just a handful of political elites and welfare persons. The central government needs to increase transfers of development funds, increase welfare, and alleviate poverty in Papua and West Papua governments. If referring to David Hume in the concept of "distribution of cakes at a birthday party," the Indonesian government needs to arrange so that every party who has the right and competes over the claim of gold and copper wealth in Papua achieves social justice, especially the structurally poor Papuans. The central government must be able to convince the Papuans that their natural wealth is not only used by the center of power on the island of Java. Nevertheless, their wealth is also used to develop well-educated and skilled Papuan human resources so that they can rise from poverty. The three-dimensional theory of justice conceptualized by Nancy Fraser proposes a more comprehensive thesis looking at the issue of injustice from the political, economic, and cultural dimensions that must be realized as a strategy of justice. The fact is that the problem of poverty in Papua is very complicated because of the wounds of colonialism, violence, violations of human rights, and the destruction of nature. The special autonomy that has been carried

⁴² Darman, W. (2012). *Analisis Strategi Corporate Social Responsibility PT Freeport Indonesia* (Doctoral dissertation, Universitas Gadjah Mada).

out for twenty years to promote and prosper Papuans has not been successful and effective in changing poverty.

REFERENCES

- Anugerah, B. (2020). Papua: Mengurai Konflik dan Merumuskan Solusi. *Jurnal Lemhannas RI*, 7(4), 51-65. Retrieved from <http://jurnal.lemhannas.go.id/index.php/jkl/article/view/111>.
- Ballard, C., & Banks, G. (2009). Between a rock and a hard place: corporate strategy at the Freeport mine in Papua, 2001–2006 in Resosudarmo, B. P., & Jotzo, F. (Eds.). (2009). *Working with Nature Against Poverty: Development, Resources and the Environment in Eastern Indonesia*. Singapore: Institute of Southeast Asian Studies.
- Cohen, R. L. (Ed.). (1986). *Justice: Views from the Social Sciences*. New York: Plenum Press.
- Cultural Survival, "The Amungme, Kamoro & Freeport: How Indigenous Papuans Have Resisted the World's Largest Gold and Copper Mine," 1 June 2022, <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/amungme-kamoro-freeport-how-indigenous-papuans-have>.
- Darman, W. (2012). *Analisis Strategi Corporate Social Responsibility PT Freeport Indonesia* (Doctoral dissertation, Universitas Gadjah Mada).
- Dewantara, A. M., & Larasati, D. K. (2022). Implementation of Progressive Law in Enforcement of Environmental Law in Indonesia: The Current Problems and Future Challenges. *Indonesian Journal of Environmental Law and Sustainable Development*, 1(2), 237-264. <https://doi.org/10.15294/ijel.v1i2.58044>
- Dickie, R. B., & Layman, T. A. (1988). *Foreign Investment and Government Policy in the Third World*. Springer.

- Elmslie, J. (2003). *Irian Jaya under the gun: Indonesian Economic Development versus West Papuan Nationalism*. University of Hawaii Press.
- Emmerson, D.K. (2005). "What is Indonesia?" in J. Bresnan (ed.), *Indonesia: The Great Transition*, Maryland: Rowman & Littlefield Publishers.
- Fraser, N. (2009). *Scales of Justice: Reimagining Political Space in a Globalizing World* (Vol. 31). New York: Columbia University Press.
- Gilbert, J. (2007). Indigenous Rights in the Making: The United Nations Declaration on the Rights of Indigenous Peoples. *International Journal on Minority and Group Rights*, 14(Issues and 3), 207-230, <https://doi.org/10.1163/138548707X208818>.
- Guinnes, P. (1994), "Local Society and Culture," in H. Hill (eds.), *Indonesia's New Order: The Dynamics of Socio-Economic Transformation*. Honolulu: University of Hawaii Press.
- Jimenez, J., Pasztor, E. M., Chambers, R. M., & Fujii, C. P. (2014). *Social Policy and Social Change: Toward the Creation of Social and Economic Justice*. California: Sage Publications.
- Keliat, A., Warsono, H., & Kismartini, K. (2021). Response of People in Tanah Papua in Assessing Special Autonomy as a Challenge and Achievement. *Jurnal Administrasi Publik: Public Administration Journal*, 11(1), 54-68, <https://doi.org/10.31289/jap.v11i1.4642>.
- Kusumaryati, V. (2021). Freeport and the States: Politics of Corporations and Contemporary Colonialism in West Papua. *Comparative Studies in Society and History*, 63(4), 881-910. <https://doi.org/10.1017/S0010417521000281>.
- Leith, D. (2002). Freeport and the Suharto regime, 1965-1998. *The Contemporary Pacific*, 14(1), 69-100, <http://doi.org/10.1353/cp.2002.0023>.
- McKenna, K. (2016). *Corporate Social Responsibility and Natural Resource Conflict*. New York: Routledge.
- Mining Digital Magazine, "Grasberg: The World's Largest Gold Mine," May 17, 2020, <https://miningdigital.com/smart-mining/grasberg-worlds-largest-gold-mine>.

- Mutaqin, A. (2013). Otonomi Khusus Papua Sebuah Upaya Merespon Konflik Dan Aspirasi Kemerdekaan Papua. *Politika: Jurnal Ilmu Politik Undip*, 4(1), 5-18, <https://doi.org/10.14710/politika.4.1.2013.5-18>.
- Office of Assistant to Deputy Cabinet Secretary for State Documents & Translation, "Law on Special Autonomy in Papua is Commitment to Bring Welfare for People: Minister," 6 June 2022, <https://setkab.go.id/en/law-on-special-autonomy-in-papua-is-commitment-to-bring-welfare-for-people-minister/>.
- Pemerintah Provinsi Papua, "Sekilas Papua," 25 May 2022, <https://www.papua.go.id/view-detail-page-254/sekilas-papua.html>.
- Pemerintah Provinsi Papua Barat, "Wilayah Papua Barat," 25 May 2022, <https://papuabarat.bpk.go.id/wilayah-pemeriksaan/provinsi-papua-barat/>
- PT. Freeport Indonesia, "Fact Sheet: Financial Contributions," 2022, <https://ptfi.co.id/site/uploads/images/62845f7c48e05-kontribusi-2022.pdf>.
- PT. Freeport Indonesia, "Fact Sheet: Human Resources," 2022, <https://ptfi.co.id/site/uploads/images/628461e50a339-ketenagakerjaan2022.pdf>.
- PT. Freeport Indonesia, "Memberdayakan Masyarakat, Melestarikan Kebersamaan," 6 June 2022, <https://ptfi.co.id/id/csr>.
- PT Freeport Indonesia, "Our Project Area: Forging Cooperation, Ensuring Sustainable Development," <https://ptfi.co.id/en/our-operation-areas>.
- Raymond Wacks (2006), *Philosophy of Law: A Very Short Introduction*, Oxford University Press.
- Rawls, J. (1999). *A Theory of Justice* (a revised edition). Massachusetts, Harvard University Press.
- Renyaan, B. M. S., Mantiri, M., & Kasenda, V. (2019). Efektivitas Corporate Social Responsibility (CSR) Pt. Freeport dalam Meningkatkan Pembangunan di Kabupaten Mimika Provinsi Papua. *Jurnal Eksekutif*, 3(3),

<https://ejournal.unsrat.ac.id/index.php/jurnaleksektif/article/view/28163>.

- Riyadi, B. S., & Mustofa, M. (2020). Corruption Culture on Managing Natural Resources: The Case Political Crime “Papa asking Stock of PT. Freeport Indonesia”. *International Journal of Criminology and Sociology*, 9, 26-36, <https://doi.org/10.6000/1929-4409.2020.09.04>.
- Rohim, N. (2014). Optimalisasi Otonomi Khusus Papua dalam Peningkatan Kesadaran Hukum Masyarakat Guna Meredam Konflik dan Kekerasan. *Jurnal Fiat Justisia*, 8(1), 80-97, <https://doi.org/10.25041/fiatjustisia.v8no1.289>.
- Secretariat of the Vice President of the Republic of Indonesia. (2019). *Indikator Kesejahteraan Sosial Utama Provinsi Papua dan Papua Barat*. <https://www.wapresri.go.id/zoobicon/2021/06/20210217-Buku-Indikator-Kesejahteraan-Sosial-Utama-Provinsi-Papua-dan-Papua-Barat-1.pdf>.
- Silkenat, J. R., Hickey, J. E., & Barenboim, P. (Eds.). (2014). *The Legal Doctrines of the Rule of Law and the Legal State (Rechtsstaat)* (Vol. 38). Heidelberg: Springer.
- The Indonesian Central Statistics Agency, “Poverty and Unequality,” 25 May 2022, <https://www.bps.go.id/indicator/23/192/1/persentase-penduduk-miskin-p0-menurut-provinsi-dan-daerah.html>
- The Indonesian Central Statistics Agency, “Percentage of Poor Population,” 20 May 2022, <https://www.bps.go.id/indicator/23/192/2/percentage-of-poor-population-p0-by-province-and-area.html>.
- The Indonesian Central Statistics Agency, “Human Development Index by Province,” 20 May 2022, <https://www.bps.go.id/indicator/26/494/1/-metode-baru-indeks-pembangunan-manusia-menurut-provinsi.html>.
- UNDP, Human Development Index, 13 June 2022, <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>.
- United Nations, “United Nations Declaration on the Rights of Indigenous Peoples,”

http://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

Viartasiwi, N. (2018). The politics of history in West Papua-Indonesia conflict. *Asian Journal of Political Science*, 26(1), 141-159, <https://doi.org/10.1080/02185377.2018.1445535>.

Virginia Gorlinski, "Papua Province, Indonesia," 1 June 2022, Britannica.com, <https://www.britannica.com/place/Papua>.

Wiessner, S. (2008). Indigenous Sovereignty: Reassessment in Light of the UN Declaration on the Rights of Indigenous People. *Vanderbilt Journal of Transnational Law*, 41(4), 1141-1176, <https://scholarship.law.vanderbilt.edu/vjtl/vol41/iss4/4/>.

WWF, "Freeport Mine," 1 June 2022, https://wwf.panda.org/discover/knowledge_hub/where_we_work/new_guinea_forests/problems_forests_new_guinea/mining_new_guinea/papua_freeport_mine/.

*Without justice,
courage is weak.*

Benjamin Franklin