



The Existence of the Papuan People's Assembly in Special Autonomy: Comparative Study of Law Between Indonesia and France

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Abstract

Article 18B paragraph (1) of the 1945 Constitution provides an explanation regarding the birth of an asymmetrical decentralization policy or the granting of special autonomy to a region in Indonesia. This special autonomy is given to several regions in Indonesia, one of which is Papua through Law Number 21 of 2001 concerning Special Autonomy for Papua Province. In carrying out the implementation of special autonomy in Papua, the Papua People's Assembly (MRP) was formed which is a cultural representation of indigenous Papuans as regulated in PP No. 64 of 2008 concerning MRP. In this case, there are many challenges faced by the MRP to foster justice for the Papuan people. This research is a type of normative juridical research with statutory, comparative law, and case approach methods. Primary, secondary, and tertiary legal materials are analyzed using systematic interpretation techniques. Based on the results of the research, to solve the existing problems, a legal comparison can be made with the French state which also provides special autonomy to the New Caledonia region which has a representative institution such as the MRP.

Keywords: Papua; Special Autonomy; Papua People's Assembly (MRP).

INTRODUCTION

Indonesia is a country that adheres to a civil law system which emphasizes the use of written legal rules in its legal system.¹In this case, Indonesia relies on codified legal rules as the basis for implementing law in its country, such as the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and the laws and regulations in force in its territory.²The 1945 Constitution of the Republic of Indonesia, as the current

¹ Joseph Andy Hartanto, "The Philosophy of Legal Reason in Indonesian Law," *Beijing Law Review* 11, no. 01 (2020): 119-127.

² Dicky Eko Prasetyo, Muh. Ali Masnun, and Noviyanti Noviyanti, "Post-Election Reconciliation in 2024 as a Constitutional Convention in Indonesia: A Progressive Legal Culture Perspective," *Jambura Law Review* 7, no. 1 (January 31, 2025): 176-196, <https://ejurnal.ung.ac.id/index.php/jalrev/article/view/26999>.

constitution in force in Indonesia, serves as the basis for governance in Indonesia. All government activities in Indonesia, from the creation of laws and regulations to their implementation, must not conflict with the 1945 Constitution.³

As a unitary state, Indonesia has adopted the principles of federalism such as regional autonomy as stated in Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that "Provincial, district and city regional governments regulate and manage their own government affairs according to the principles of autonomy and assistance tasks."⁴ In this case, Indonesia, which is a unitary state, will be divided into regions called regional governments which are given autonomy or authority to manage and regulate their own household affairs through decentralization or deconcentration.⁵

Granting autonomy or authority to each region to manage its own government affairs is intended to enable each region to adapt its development to the socio-cultural conditions and the conditions of the local community and natural resources, so that development can proceed smoothly and evenly. The implementation of regional autonomy is also carried out with the principles of democracy, community participation, equality, justice, and attention to regional diversity.⁶

The granting of autonomy to each region gave birth to the granting of asymmetric decentralization policies or the granting of special autonomy to a region in Indonesia. This is as stated in Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that "The State recognizes and respects regional government units that are special or exceptional in nature as regulated by law." This special autonomy was granted to several regions in Indonesia, one of which is Papua through Law of the Republic of Indonesia Number 21 of 2001 concerning Special Autonomy for Papua which was later amended by Law of the Republic of Indonesia Number 2 of 2021 concerning the Second Amendment to Law of the Republic of Indonesia Number 21 of 2001 concerning Special Autonomy for Papua Province. This law then regulates all of Papua's authorities, rights, and obligations in implementing special autonomy in its territory.

³ Hananto Widodo Dicky Eko Prasetyo, "Ius Constituendum Formal Testing in Constitutional Amendments," *Al-Manhaj: Journal of Islamic Law and Social Institutions* 4, no. 1 (2022): 2.

⁴ Bayangsari Wedhatami Dicky Eko Prasetyo, Muh Ali Masnun, "Legal Uncertainty of Golf Game as Sports and Entertainment Branch in Local Tax Imposition," *Wawasan Yuridika* 4, no. 1 (2024): 76-93.

⁵ Aminah Aminah et al., "Implementation of the Effectiveness of Regional Autonomy in Indonesia," *Trace* 14, no. 1 (2021): 123-133.

⁶ Dwinanta Nugroho, Anis Mashdurohatun, and Gunarto, "The Governance of Sultan Ground Land Position and Pakualaman Ground in the Framework of National Law and the Special Law of Yogyakarta Special Region in Achieving Justice," *International Journal of Business, Economics and Law* 24, no. 2 (2021): 101-108.

In implementing the implementation of special autonomy in Papua, the Papuan People's Assembly (MRP) was formed, which is a cultural representation of indigenous Papuans who have certain authorities in the context of protecting the rights of indigenous Papuans, based on respect for customs and culture, empowerment of women, and strengthening religious harmony.⁷The authority, rights and obligations of the MRP are then regulated in Government Regulation Number 64 of 2008 concerning Amendments to Government Regulation Number 54 of 2004 concerning the Papuan People's Assembly.

Essentially, the granting of special autonomy and the establishment of the Papuan People's Assembly are intended to improve the welfare and participation of the Papuan people in decision-making that affects and impacts their lives. The granting of special autonomy and the establishment of the Papuan People's Assembly are motivated by the numerous conflicts occurring in the Papuan region, ranging from ideological conflicts to conflicts related to political aspirations for independence, to armed conflict.⁸In this case, granting special autonomy to the Papua region is expected to be able to reduce and eliminate the number of conflicts that occur in Papua.

In resolving the conflict in Papua, the Papuan People's Assembly plays a crucial role as the cultural representative of indigenous Papuans. The Papuan People's Assembly holds primary authority, particularly in guaranteeing the rights of Papuans and providing consideration and approval for draft legislation to be implemented in Papua.⁹The crucial role of the Papuan People's Assembly, however, is not without several challenges in carrying out its functions comprehensively. Numerous challenges are faced, both in terms of implementation and enforcement of the Papuan People's Assembly's functions, and in ensuring the effectiveness of its operation in fostering justice for the Papuan people.

The continued emergence of several issues related to the role of the Papuan People's Assembly (MPA) in implementing special autonomy in Papua has necessitated the need for a new method that can improve the effectiveness and fairness of the MPA's role in implementing special autonomy in Papua. In this regard, a legal comparison can be made with other countries that also adopt a similar special autonomy system, one of which is France, which implements a system of decentralization and deconcentration similar to the concept of regional government in Indonesia. In this case, France grants special autonomy rights to New

⁷ Andrizar Eddy Asnawi, Birman Simamora, "Special Autonomy on the Existence of the Unitary State of the Republic of Indonesia," *Journal of Legal Analysis* 4, no. 2 (2021): 245.

⁸ Sekar Anggun Gading Pinilih Andreas MW Lesnussa, Amalia Diamantina, "The Duties and Functions of the West Papua People's Assembly in Efforts to Protect the Basic Rights of Indigenous Papuans in Manokwari," *Diponegoro Law Journal* 13, no. 1 (2024): 1-17.

⁹ Dicky Eko Prasetyo, "Protection and Recognition of the Customary Rights of the Indigenous People of Biak, Papua," *Realism: Law Review* 2, no. 1 (2024): 54-82.

Caledonia.¹⁰ Thus, the French territory of New Caledonia can be compared to the Indonesian territory of Papua. While Papua has a Papuan People's Assembly within its political institution, New Caledonia has a New Caledonia Representative Council within its political institution. Based on these considerations, it is hoped that Indonesia can adopt a new mechanism based on legal comparisons with France.

Research on the Papuan People's Assembly (MRP) has been conducted by several previous researchers. This study briefly describes three previous studies that have discussed the Papuan People's Assembly (MRP). These include: (i) Fatmasari et al. (2023), who analyzed the relevance of special autonomy and the involvement of the Papuan People's Assembly as a means to address potential conflict in an inclusive manner.¹¹ Another study was conducted by (ii) Toroby and De Fretes (2024) which focused on efforts to socialize the functions and authorities of the Papuan People's Assembly (MRP) after the revision of the Papuan Special Autonomy Law.¹² Research discussing the Papuan People's Assembly (MRP) was also conducted by Koibur (2024) who analyzed the role of the Papuan People's Assembly (MRP) and special autonomy for Papua as a means to channel the aspirations of the Papuan people so that they can reduce various conflicts aimed at separating Papua from the Republic of Indonesia.¹³ Of the three previous studies mentioned above, this study's novelty lies in its comparative legal aspects between Indonesia and France regarding the implementation of special autonomy. This confirms its originality.

RESEARCH METHODS

This research is a legal research using a normative juridical research method which is aimed at examining several aspects that refer to the law and/or statutory regulations that are enforced to resolve a legal problem. This research uses a statute approach, a case approach, and a comparative legal approach. In this case, the statute approach will be carried out by reviewing and examining all laws and regulations related to the issue or problem being discussed, such as Law of the Republic of Indonesia Number 2 of 2021 concerning the Second Amendment to Law of the Republic of

¹⁰ Triyoga Budi Prasetyo Windu Wahyu Wijaya, Moch. Afifuddin, "French Strategy in Facing Defense and Security Threats in the Pacific (Case Study of Counter-Insurgency in New Caledonia)," *Asymmetric Warfare* 7, no. 1 (2021): 72-102.

¹¹ Elva Imeldatur Rohmah Eka Putri Fatmasari, Lutfi Rifada, Syarifatun Nadliyah, Rohmatullah, Cindy Aura Cahyani, "Special Autonomy as a Form of Political Decentralization in Conflict-Prone Regions," *Legacy : Journal of Law and Legislation* 3, no. 2 (2023): 181-198.

¹² Diego Romario De Fretes Renida Joselina Toroby, "Socialization of the Implementation of Duties and Authorities of the Papuan People's Assembly After the Second Amendment to Law Number 21 of 2001," *Melayani: Journal of Community Service* 1, no. 3 (2024): 117-122.

¹³ Samparisna Koibur, "The History of Papua's Special Autonomy: An Effort to Resolve Conflict," *Syntax Idea* 6, no. 9 (2024): 6075-6081.

Indonesia Number 21 of 2001 concerning Special Autonomy for Papua Province and Government Regulation Number 64 of 2008 concerning Amendments to Government Regulation Number 54 of 2004 concerning the Papuan People's Assembly. Meanwhile, the case approach will be carried out by analyzing cases of community conflict that occurred in Papua.

This research will also use a comparative legal approach with applicable law in France. This research will utilize three types of legal materials: primary, secondary, and tertiary legal materials. Primary legal materials include Law of the Republic of Indonesia Number 2 of 2021 concerning the Second Amendment to Law of the Republic of Indonesia Number 21 of 2001 concerning Special Autonomy for Papua Province and Government Regulation Number 64 of 2008 concerning Amendments to Government Regulation Number 54 of 2004 concerning the Papuan People's Assembly. Secondary legal materials include legal books and literature, legal journals, and legal papers and articles. Meanwhile, tertiary legal materials include the internet or websites. The author will analyze primary, secondary, and tertiary legal materials using systematic (logical) interpretation carried out by connecting one legal regulation with another legal regulation or a legal regulation with a unified legal system without deviating from the proper and applicable legal system.

ANALYSIS AND DISCUSSION

A. Papua's Special Autonomy and the Existence of the Papuan People's Assembly (MRP)

Papua is a region rich in natural resources, so it is often referred to as "heaven that came down to earth" and nicknamed "the land of heaven".¹⁴ Before the arrival of Europeans, the Papua region had been home to indigenous tribes for thousands of years. After Indonesia gained independence from the Netherlands in 1945, Papua's status remained a matter of debate. In 1963, the Netherlands handed over administration of West Papua to the United Nations, and in 1965, Indonesia took over administration of Papua.¹⁵ In 1973, President Soeharto changed the name of West Irian to Irian Jaya.¹⁶

Based on the aspirations of the Papuan people who wanted the name Irian Jaya to be returned to Papua, the Irian Jaya Provincial DPRD, through Decree Number

¹⁴ VW Apriandini, D., & Soemarwi, "The Relevance of the Government's Role in the State's Right to Control Natural Resources Management," *Jurnal Serina Sosial Humaniora* 1, no. 1 (2023): 364-376.

¹⁵ *Ibid.*

¹⁶ Setiawati, SM, *Border Issues in Indonesian Foreign Policy* (Surabaya: Jakad Media Publishing, 2023).

7/DPRD/2000 dated August 16, 2000, returned the name Irian Jaya to Papua.¹⁷ In 2004, the Papua region was divided by the Government into two provinces: the eastern region retained the name Papua Province, while the western region was given the name West Irian Jaya Province (Irijabar), which was later changed to West Papua. The Papua province was divided from the original Papua and West Papua Provinces into six provinces, plus three new provinces, which were inaugurated on November 11, 2022: Central Papua, Mountainous Papua, and South Papua. Then, on December 9, 2022, the 38th province of Indonesia, Southwest Papua, was inaugurated.¹⁸

Papua is a region rich in extraordinary diversity, not only in terms of biodiversity and abundant natural resources, but also in terms of socio-cultural, topographical, and demographic diversity.¹⁹ This gives Papua and its people unique and distinctive characteristics, necessitating special policies and treatment. Papua, in addition to its vast land area, also boasts abundant natural resources, such as mining, forest products, fisheries, and so on. It covers an area of approximately 421,981 square kilometers (3.5 times larger than Java), with a topography encompassing mountainous areas and largely swampy coastal areas.²⁰ So it has an impact on the economic life of the indigenous Papuan people, namely as farmers and hunters.

Papua's population is relatively small compared to its land area and the average Indonesian population at the regional government level. Although indigenous Papuans share similarities in skin and hair color, their socio-cultural, linguistic, and religious backgrounds are highly diverse. This demonstrates the highly varied and heterogeneous socio-cultural, economic, and political diversity among Papuan tribes. There are over 250 ethnic groups in Papua, each with its own distinct cultures, languages, practices, and religions, resulting in a multitude of customary norms prevailing across these six provinces. In addition, there are approximately 100 non-Papuan ethnic groups. Tribal influence remains dominant, resulting in incidents demonstrating a lack of social harmony often leading to violence. In reality, social communication is limited, and people are generally reluctant to interact with those of different ethnicities and religions. Conflict often occurs when we fail to understand the plurality of these norms and values.²¹

¹⁷ R. Katharina, *Measuring the Achievements of Papua's Special Autonomy* (Jakarta: Yayasan Pustaka Obor Indonesia, 2019).

¹⁸ J. Nashrullah, "Challenges in Organizing the 2024 National Simultaneous Elections and Regional Elections in Four New Provinces of Papua," *Lex Renaissance* 8, no. 2 (2023): 214-233.

¹⁹ B. Anugerah, "Papua: Unraveling Conflict and Formulating Solutions," *Journal of the Indonesian National Resilience Institute* 7, no. 4 (2019): 51-65.

²⁰ DE Nurmiyati, N., & Rahmawati, "Natural Resource Politics: A Study of the Interests of Local Political Elites in Regional Expansion in Paser Regency, East Kalimantan Province," *Journal of Political Discourse* 6, no. 1 (2021): 49-61.

²¹ Y. Sugandi, *Conflict Analysis and Policy Recommendations Concerning Papua* (Jakarta: Friedrich-Ebert-Stiftung, 2008).

Papua's wealth, both in terms of natural resources and cultural richness, is meaningless without adequate human resources. Problems arise when Papua's wealth is affected by a long history of conflict, which has resulted in significant humanitarian costs. The conflict, which began with the UN-supervised Act of Free Choice (Act of Free Choice) in Papua, which resulted in the majority of Papuans agreeing to join Indonesia, did not immediately resolve the issue due to ongoing controversy within certain circles.²² Since joining Indonesia, Papua has been at the center of conflict between the Indonesian government and some indigenous Papuans who support Papuan independence. This conflict encompasses issues such as human rights, economics, politics, and freedom of expression. To ease tensions in Papua, the Indonesian government granted special autonomy status to regions on the island of Papua to address the conflict and social tensions.

Papua's special autonomy and the MRP (Papuan People's Assembly) are two crucial aspects of the regional autonomy policy framework in Papua. Papua's special autonomy arose from various considerations across existing aspects. Politically, Papua's special autonomy stemmed from the Papuan people's demands for Papuan independence from 1998 to 2000.²³ This is closely related to the very concerning socio-economic conditions of Papua. Fundamental issues such as the economic backwardness of the community, the lack of quality public services, the still worrying infrastructure network, and the low quality of Human Resources (HR) are the basis for the need for special treatment in the Papua region. In addition, as an effort to elevate the dignity and status of indigenous Papuans within the framework of the Unitary State of the Republic of Indonesia through Special Autonomy for Papua, which was marked by the enactment of Law Number 21 of 2001 concerning Special Autonomy for Papua Province in conjunction with Law Number 35 of 2008 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2008 concerning Amendments to Law Number 21 of 2001 concerning Special Autonomy for Papua Province to Become Law in conjunction with Law Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province (hereinafter referred to as the Special Autonomy Law).

Special autonomy is a special authority recognized and granted to Papua Province to regulate and manage the interests of the local community according to its own initiative based on the aspirations and basic rights of the Papuan people.²⁴ This special

²² U. Suropati, "Comprehensive Solution Towards a New Papua: Peaceful, Just, and Dignified Resolution of the Papuan Conflict," *Indonesian National Resilience Institute Journal* 7, no. 1 (2019): 73-89.

²³ NM Huda, *Problems of Special Autonomy in Papua* (Yogyakarta: Nusamedia, 2021).

²⁴ Bintang Ulya Kharisma et al., "Agrarian Land Policy on Land in Indonesia Post Regional Autonomy," *Media Keadilan: Jurnal Ilmu Hukum* 11, no. 2 (2020): 129.

authority includes greater responsibility for the Province of Papua and the people of Papua to organize governance and regulate the use of natural resources in the Province of Papua for the greatest prosperity of the Papuan people as part of the Indonesian people in accordance with statutory regulations.²⁵The granting of special autonomy is intended to realize justice, uphold the supremacy of law, respect for human rights, accelerate economic development, improve the welfare and progress of the Papuan people, within a framework of equality and balance with the progress of other provinces.²⁶

After more than two decades of special autonomy, the implementation of Papua's Special Autonomy, which currently covers six provinces, has shown significant progress in development. However, some in Papua have criticized the development as primarily focused on physical aspects, as there is still a perception that the development process has not fully provided a significant role for indigenous Papuans. Nevertheless, it is worth noting that the implementation of special autonomy has seen both successes and failures. Even when a development program or project is implemented according to established schedules and procedures and does not violate legal regulations, the expected development results are often deemed to fall short of the expectations of the Papuan people.

If the granting of special autonomy was a response to past development mistakes, then similar mistakes must not be repeated in this era of special autonomy. This means that the objectives of special autonomy must be a benchmark, not only in terms of how development programs are implemented in Papua according to established processes and procedures, but also in terms of their results and benefits. This emphasis on results and benefits is crucial because many have noted that development strategies and approaches in Papua over the years have been more influenced by political policies and approaches than by welfare approaches, resulting in outcomes and benefits that are not aligned with the true aspirations of the Papuan people.

There are various factors that greatly determine the success of the implementation of Special Autonomy, as stated by experts in the implementation of public policy, for example, it turns out that human resources and financial resources and their allocation have a large impact on the implementation of special autonomy.²⁷In addition, policy environmental factors, not only politics as is often considered the main obstacle in Papua, but also natural environmental conditions, such as topography and

²⁵ Musrafiyan Musrafiyan, Mutiara Fahmi, and Zahlul Pasha Karim, "Local Political Parties in Special Autonomy Regions: A Legal Comparison of Aceh and Papua," *Jurnal Justisia : Journal of Legal Studies, Legislation and Social Institutions* 6, no. 2 (2021): 179.

²⁶ LA Achmady, "The Specificity of Papua's Special Autonomy," *Dynamic Journal of Jayapura University of Science and Technology* 17, no. 1 (2020): 81-88.

²⁷ R. Edyanto, E., Agustang, A., Idkhan, AM, & Rifdan, "Implementation of the Special Autonomy (Otsus) Policy for Papua," *Journal of Social Sciences and Education* 5, no. 4 (2021): 1445-1451.

demographics, including the population which is scattered and relatively small in number compared to the area of Papua, also have a significant impact on the implementation of special autonomy.²⁸

The dynamics of the implementation of special autonomy in Papua show a non-linear pattern and tend to be meandering or irregular. Although initially welcomed with high hopes as a solution, this policy was politically a compromise. Overall, the implementation of special autonomy initially faced various crucial challenges and appeared to have only a limited practical impact due to difficulties in its implementation. However, this policy is slowly starting to be implemented, although still far from expectations. Therefore, the presence of special autonomy is a very important and strategic policy, but not something extraordinary in the context of public administration and regional governance. The concept of decentralization implemented by the government for the Papua region is actually an extension of the decentralization concept also applied in other regions in Indonesia. Special autonomy and broad autonomy are variants of the decentralization concept known as asymmetrical decentralization, which has been used since the reformation.²⁹ The intent and purpose are also the same: to improve the quality of governance. Specifically for Papua, the special autonomy policy is also intended to address various issues in the region. In this context, several articles and provisions are specific, such as those concerning the People's Consultative Assembly (MRP) and the special autonomy fund. The existence of Otsus is expected to be an effective political formula to quell the ongoing complaints about development and demands for independence voiced by Papuans.

The Papuan People's Assembly, hereinafter abbreviated as MRP, is a cultural representation of Indigenous Papuans, which has certain authorities in the framework of protecting the rights of Indigenous Papuans based on respect for customs and culture, empowerment of women, and strengthening of religious harmony as regulated in the Special Autonomy Law. As one of the legislative institutions involved in the administration of government in Papua that has a vital role in the implementation of Special Autonomy, the Papuan People's Assembly, which is located in each provincial capital, has the roles and functions generally carried out by legislative institutions, namely legislative, budgetary and supervisory authority. The implementation of special autonomy is hampered by the suboptimal implementation of these three basic authorities, especially in achieving policy objectives. In general, the

²⁸ Rindang Mustikawati and Arief Maulana, "Papua Province Before and After 18 Years of Special Autonomy Funds," *Jurnal Public Policy* 6, no. 2 (2020): 81.

²⁹ Raden Imam Al Hafis Nurmasari, "Asymmetric Decentralization: Poverty Amidst the Abundance of Papua's Special Autonomy," *Journal of Public Administration Research* 5, no. 2 (2019): 1180-1192.

role and function of legislative institutions in the regions are not yet fully strong in balancing the similar roles and functions held by the executive institution, so they cannot carry out effective oversight to prevent deviations in the implementation of special autonomy, such as misuse of funds or government power. By carrying out effective oversight, legislative institutions can encourage and ensure that programs or policies related to the implementation of special autonomy are implemented in accordance with established operational standards. Thus, the fundamental purpose of special autonomy and the Papuan People's Assembly is to improve the welfare and participation of Papuans in decision-making that affects their lives. However, the implementation of special autonomy and the role of the MRP has not always been smooth, and challenges and debate remain regarding its effectiveness and fairness.

B. Legal Updates on Special Autonomy for Papua: A Comparison of Laws Between Indonesia and France

In an effort to find a new mechanism for special autonomy, it is necessary to compare the system with other countries that also recognize the term, such as France. France is a semi-presidential republic in Western Europe, embracing the values of "Liberty, Equality, and Fraternity."³⁰

A semi-presidential government is a combination of the two systems. Therefore, there are two executive leaders with distinct roles: the French President as Head of State and the Prime Minister as Head of Government.³¹ There is a responsibility for carrying out government tasks which basically remains in the hands of the Central Government, however, several countries in the world, including France, adhere to the principle of decentralized unity, so there are certain tasks that must be carried out by regions to manage their own regions, thus creating a reciprocal relationship which gives rise to the creation of a relationship of authority and supervision.

France is known for its centralized, dominant central government, which creates inefficiency and low public participation. Demands for changes to the local government system were fueled by the French Revolution, which gave birth to a new structure of local government in France in December 1789.³² The final law for the basis of regional government practice in France is the Regional Government Law of 1982 which has been amended several times to date. The regulation of decentralization is stated in the Constitution of the 5th Republic of 1958, "France is an undivided, secular,

³⁰ Knut Rio, "Commons, Associations, and Possibilities of Egalitarian Life in Paris, France," *Social Analysis* 66, no. 3 (2022): 147-168.

³¹ Matthew Søberg Shugart, "Semi-Presidential Systems: Dual Executive And Mixed Authority Patterns," *French Politics* 3, no. 3 (2005): 323-351.

³² *Ibid.*

democratic and socialist republic. Guaranteeing the equality of all races and religions, all beliefs organized on the basis of a decentralized system". The decentralization policy in France is based on a French parliamentary law known as the Gaston Defferre Law in 1982. Before that law, the autonomy of French cities and departments was carried out on a limited basis based on laws passed in 1871 and 1884.

Therefore, the implementation of the Regional Government System in France is carried out by implementing decentralization and deconcentration simultaneously and in a balanced manner, similar to Regional Government in Indonesia. However, there are differences in the concept of different governance, namely French autonomy is divided into four categories including institutional, legal, financial, and human resources, while in Indonesia, based on articles 9-12 of Law 23/2014, government affairs consist of absolute government affairs, concurrent government affairs, and general government affairs.³³ Furthermore, since 1982 France has begun implementing decentralization by giving authority and freedom, both political and administrative, to autonomous regional governments consisting of³⁴:

1. Regions were formed since the implementation of decentralization in France in 1982 with the authority held by the Regions including those related to planning, regional management, economic development, etc. The number of Regions currently existing is 22 Regions.
2. Departments were formed in 1789 and currently number 96 Departments in the Metropole (French mainland in Europe) and 4 overseas Departments (Martinique, Guadeloupe, Reunion and Guyane).
3. Commun (City) This institution was established in 1789 and is the lowest level of government in the French system. Currently, there are nearly 37,000 Communities, 80% of which have a population of less than 1,000.

One example of the existence of special autonomy in France is New Caledonia, which is a French Territory with special autonomy in the Pacific Ocean (Noumea Agreement 1998). Background to the Granting of Special Autonomy to New Caledonia. In 1853, the French Government under Napoleon III officially took over the territory of New Caledonia. France made New Caledonia one of the 12 overseas territories (Territoire d'Outre Mer). Then, riots and clashes occurred between independentist and loyalist groups which were followed by the Matignon-Oudinot Accords signed on June 26, 1988 by the French Prime Minister, independentist groups, and loyalist groups. This agreement guaranteed institutional and economic development for 10 years, before New Caledonia determined its future.

³³ Nanang Haryono, "Comparison of Public Management Reform in Indonesia and France," *Mediasosi Journalan : Journal of Social Sciences and Public Administration* 5, no. 2 (2021): 132.

³⁴ *Ibid.*

The end of the Matignon-Oudinot Accord led France and New Caledonia to draft and agree on a new agreement, namely the Nouméa Accord, which was signed on May 5, 1998.³⁵ Ultimately, New Caledonia is a French territory with special autonomy rights (*sui generis* collectivity). Similar to Papua's special autonomy, which has its own authority, New Caledonia's special autonomy also involves a division of authority between France and the New Caledonia region. New Caledonia's political institutions include: the French High Commissioner, the New Caledonia Representative, the Congress, and the New Caledonia Government. Therefore, in this case, it can be seen that the existence of the New Caledonia Representative is similar to the Papuan People's Assembly.

Based on Article 1 number 8 of Law No. 2 of 2021 concerning the Second Amendment to Law No. 21 of 2021 concerning Special Autonomy for Papua Province which explains the authority of the position of the MRP in organizing government as a cultural representation of Indigenous Papuans, who have certain authorities in the context of protecting the rights of Indigenous Papuans based on respect for customs and culture, empowering women, and strengthening religious harmony as regulated in the Law. With the existence of this MRP, it is hoped that it can accommodate the underdeveloped Papuan community, this is in connection with the main ideas put forward in the formulation of the Special Autonomy Bill.³⁶ Therefore, the People's Consultative Assembly (MRP) was established as a representative body with specific authority, roles, and functions to realize the goals of the Papuan people. Meanwhile, the philosophy of the Papua Special Autonomy Law states that indigenous Papuans should be able to live independently and prosper economically, politically, and socially. However, the regional government has been deemed inadequate to meet the needs of indigenous Papuans, necessitating the need for governmental facilities and instruments.

The MRP also has special authority, one of which is to provide consideration and approval for the draft *Perdatus* from the results of discussions between the Papuan People's Representative Council (DPRP) and the Governor. The authority given to the MRP cannot be used as legislative authority because in accordance with the provisions of Article 6 paragraph (1) that legislative power is exercised by the DPRP. The MRP's special authority to provide consideration and approval for this *Perdatus* is not accompanied by the authority to submit a review of the *Perdatus*.³⁷ Regarding this mat-

³⁵ Consulate General of the Republic of Indonesia in Noumea, New Caledonia (French Overseas Territory), "New Caledonia," 2021, <https://kemlu.go.id/noumea/id/read/kaledonia-baru/869/etc-menu>.

³⁶ Suharyo Suharyo, "Special Autonomy in Aceh and Papua Amidst the Phenomenon of Corruption, A Strategy for Legal Enforcement," *De Jure Journal of Legal Research* 18, no. 3 (2018): 305.

³⁷ A. Sakti RS Rakia, "The Special Authority of the Papuan People's Assembly Regarding the Formation of Regional Regulations," *Justisi* 7, no. 1 (2021): 15.

ter, it is different from the provisions stated in Article 21 paragraph (1) letters a and b that the MRP has the right to raise questions and submit proposals and opinions regarding Regional Regulations and Governor's decisions that conflict with the protection of the rights of indigenous Papuans. Regulations related to the procedures for implementing the MRP's authority to provide considerations and approval of Regional Regulations are explained in Article 38 of PP Number 54 of 2004 concerning the Papuan People's Assembly, in conjunction with Articles 8-13 of Regional Regulation Number 4 of 2008 concerning the Implementation of the Duties and Authorities of the Papuan People's Assembly. The duties and authorities of the MRP are detailed and explained in Article 20 paragraph (1) of the Special Autonomy Law, the MRP has the following duties and authorities:

- a. provide consideration and approval for prospective candidates for Governor and Deputy Governor proposed by the regional head election organizers;
- b. provide consideration and approval for the Draft Regional Regulation submitted by the DPRP together with the Governor;
- c. provide advice, considerations and approval of planned cooperation agreements, whether made by the Government or the Regional Government of Papua Province with third parties applicable in Papua Province, specifically those concerning the protection of the rights of Indigenous Papuans;
- d. pay attention to and channel the aspirations and complaints of indigenous peoples, religious communities, women and the general public concerning the rights of Indigenous Papuans, and facilitate follow-up resolution; and
- e. provide considerations to the DPRP, Governor, DPRK, and Regent/Mayor regarding matters related to the protection of the rights of Indigenous Papuans.

Meanwhile, the rights held by the MRP are stated in Article 22 paragraph (1) which consist of:

- a. ask questions;
- b. convey suggestions and opinions;
- c. immunity;
- d. protocol; and
- e. administrative finance.

Based on the MRP's rights, the institutional rights and member rights in the Article are essentially the same as legislative rights in general. However, the Special Autonomy Law does not clearly regulate the MRP's right to question the government. Essentially, there are no provisions that clearly explain whether the MRP is a regional legislative body or merely a representative body for the indigenous Papuans. In gen-

eral, it is unclear what externally binding regulations the MRP can establish, reflecting regional legislative bodies in general.

The conflict in Papua has escalated since the end of 2018 due to the Nduga attack and the 2019 demonstrations. The conflict within Papuan society is driven by several factors, including historical disputes over the integration of West Irian into Indonesia, unresolved human rights violations, and the increasing marginalization and discrimination against Papuans.³⁸ In addition, according to the Chairperson of the National Human Rights Commission, Atnike Nova Sigiri, the first cause of the conflict is ideological in nature and is related to political aspirations regarding the issue of independence.³⁹ This conflict involved pro-independence groups, armed groups, and the Indonesian National Armed Forces (TNI) and the Indonesian National Police (Polri). The second cause is economic issues, relating to infrastructure and economic resources, involving citizens and corporations or the government. The third cause is political issues, arising from the formation and implementation of central government policies, which often face rejection and criticism from local residents. The fourth cause is socio-cultural issues, involving conflicts between Papuans and non-Papuans.

According to the Alliance for Democracy for Papua, 56 cases of violence and armed conflict were recorded in Papua from January to November 2023. These conflicts involved and resulted in casualties among civilians, the Indonesian National Armed Forces (TNI), the Indonesian National Police (POLRI), and the armed group TPNPB (West Papua National Liberation Front). The impact of this armed violence included damage to public facilities such as government offices, schools, airports, and others. The deaths also included 44 civilians, 22 TNI personnel, 5 POLRI personnel, and 10 TPNPB members.⁴⁰ This case also resulted in an increase in refugees from both indigenous and non-indigenous Papuan civilian populations. Furthermore, other sources of conflict include the Special Autonomy Law for Papua and the expansion of the region, which represent conflicting policies between the Indonesian government and the Papuan people.

The suffering experienced by the Papuan people is one of the causes of conflict in Papua because the people will fight for independence as their own nation and separate themselves from Indonesia. The Indonesian government in facing this conflict makes

³⁸ Wendsney A. Sadi Tangguh Chairil, "Papua Conflict: The Government Needs to Change Its Security Approach to a Humanist Approach," 2020, <https://www.voaindonesia.com/a/komnas-ham-konflik-di-papua-berlatar-banyak-isu/7006133.html>.

³⁹ Anugrah Andriansyah, "National Human Rights Commission: The Conflict in Papua is Based on Many Issues," 2023, <https://www.voaindonesia.com/a/komnas-ham-konflik-di-papua-berlatar-banyak-isu/7006133.html>.

⁴⁰ Nurhadi Sucahyo, "Violence in Papua: The End of a Dark Year, the Beginning of a Gloomy Year," 2024, <https://www.voaindonesia.com/a/kekerasan-di-papua-akhir-tahun-kelam-awal-tahun-muram/7427772.html>.

every effort and effort to resolve the conflict, one of the efforts made by the Indonesian government to resolve the conflict by granting and implementing Special Autonomy to Papua. Seen from the history of the emergence of Special Autonomy is the history of the Papuan people who fought to resolve the conflict that occurred between the Indonesian government and the Papuan people. For the Indonesian government, granting Special Autonomy to Papua is expected to be the best option as an effort to be able to suppress the Papuan people who want to break away and demand independence. This is because the existence of an autonomous region within a country (a self-governing intra-state region) as a form of way to resolve internal, therefore the central government is forced to form an autonomous region as an intra-state region with a unique level of local self-government.⁴¹ The process of establishing and implementing special autonomy still faces various obstacles and problems, such as distrust between the Indonesian government and the Papuan people in the implementation of special autonomy. This has resulted in numerous representational issues, policies inconsistent with local culture, unequal exploitation and management of natural resources, and disparities between local community groups, all of which contribute to conflict. Therefore, with the many problems still present in the establishment and implementation of special autonomy in Papua, it can be said that the implementation of special autonomy in Papua has not helped the Papuan people achieve the level of prosperity that was intended.

Given the series of conflicts arising from the granting of Special Autonomy to the Papuan region and the numerous discourses surrounding national disintegration among Papuan officials, the Papuan People's Assembly (MPR), as a representative of the Papuan people, plays a crucial role in resolving these conflicts. Granting special autonomy to the Papuan government was intended to alleviate the ongoing conflict in the region. However, the implementation of this special autonomy has not been effective and optimal. The introduction of special autonomy, as a remedy for the Papuan people, has instead given rise to various unresolved conflicts and violence. Therefore, the role of the MPR is crucial in addressing these issues.

The Papuan People's Assembly, which is a representative of the Papuan people, whose presence is based on Government Regulation Number 54 of 2004 as amended by Government Regulation Number 64 of 2008 concerning the Papuan People's Assembly, explains that the Papuan People's Assembly, hereinafter abbreviated as MRP, plays a role in providing consideration and approval in the formulation of regional policies, in the context of equality and diversity of Papuan people's lives, preserving Papuan culture and natural environment. The presence of the MRP is a cultural repre-

⁴¹ Eddy Asnawi, Birman Simamora, "Special Autonomy Regarding the Existence of the Unitary State of the Republic of Indonesia."

sentation of indigenous Papuans who have certain authorities in the context of protecting the original rights of Papuans based on respect for customs and culture, empowering women, and strengthening religious harmony.

The birth of the Papua Special Autonomy Law brings a special bias in protecting the rights of Papuan citizens with the presence of a cultural institution, namely the MRP, the presence of the MRP has an important role in regulating the implementation of special autonomy, there are roles of the MRP's authority in safeguarding the rights of citizens, including:

1. The MRP provides protection for citizens' rights so that they are not lost due to the development dynamics of life in development in Papua;
2. The MRP provides consideration and approval for the candidate pairs for Governor and Deputy Governor proposed by the DPRP;
3. The MRP provides considerations in the creation of regional regulations or PERDASUS proposed by the DPRP together with the Governor;
4. The MRP provides advice, considerations and approval of planned cooperation agreements made by the provincial government with third parties applicable in the Papua region, specifically those concerning the protection of the rights of indigenous Papuans;
5. Paying attention to and channeling the aspirations and complaints of indigenous communities, religious communities, women and the general public concerning the rights of indigenous Papuans and facilitating follow-up resolution;
6. Provide considerations to the DPRP, Governor, Regency/City DPRD and Regent/Mayor regarding matters related to the protection of the rights of indigenous Papuans.

CONCLUSION

Papua is a region in Indonesia rich in biodiversity, natural resources, socio-cultural aspects, topography, and demographics. Papua's relatively small population compared to its vast territory, coupled with the diverse ethnicities and communities within Papua, often leads to conflicts with the government and between communities. To address these issues, the Indonesian government has implemented a special autonomy policy in the Papua region to address these conflicts.

The special autonomy policy in Papua is inseparable from the presence of a cultural institution representing indigenous Papuans, the Papuan People's Assembly (MRP). The presence of Special Autonomy in Papua and the MRP aims to improve the welfare and participation of the Papuan people. However, the implementation of the Special Autonomy policy and the presence of the MRP pose challenges related to the

effectiveness of the institution and whether the granted special autonomy has provided a sense of justice. To find new positive innovations, this paper compares the special autonomy system with that of France. One form of Special Autonomy in France is the birth of New Caledonia, a French territory granted special autonomy in the Pacific Ocean. Similar to Special Autonomy in Papua, Special Autonomy in New Caledonia also has its own division of authority, particularly in the economic sector. New Caledonia also has a representative institution like the MRP, based on the Noumea Agreement.

The emergence of the MRP has primary authority, particularly in guaranteeing the rights of Papuan citizens, such as providing approval and consideration of draft regional regulations (Perdapus), and then providing consideration in the election of Papuan regional heads. The birth of the MRP in the Papua Region is very crucial because of the frequent occurrence of community conflicts in the Papua Region, such as human rights violations, violence by the authorities, and armed conflicts carried out by separatist groups. Therefore, the presence of the MRP is expected to be a breath of fresh air for the Papuan people, acting as a mediator and shield for the Papuan people so that the rights of each citizen are not disturbed and can ensure that every community in the Papua Region feels the impact of Special Autonomy in the Papua Region.

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