

## The Existence of the Papua People's Assembly in Special Autonomy: A Comparative Legal Study 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).

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### INTRODUCTION

Indonesia is a country that adheres to the civil law legal system, which emphasizes the use of written legal rules in its legal framework.<sup>1</sup> In this case, Indonesia relies on codified legal rules as the basis for law enforcement in its country, such as the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and the applicable laws and regulations in its territory. The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) as the current constitution in Indonesia serves as the foundation for the administration of government in Indonesia. All government activities in Indonesia, from the formation of laws to their implementation, must not contradict the 1945 Constitution of the Republic of Indonesia.<sup>2</sup>

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

<sup>2</sup> Hananto Widodo Dicky Eko Prasetio, "Ius Constituendum Pengujian Formil Dalam Perubahan Konstitusi," *Al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam* 4, no. 1 (2022): 2.

As a unitary state, Indonesia has adopted federalism principles such as regional autonomy as stated in Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that "Provincial, regency, and city regional governments manage and administer their own governmental affairs based on the principles of autonomy and delegated tasks." In this case, Indonesia, as a unitary state, will be divided into regions referred to as regional governments, which are granted autonomy or authority to manage and administer their own household affairs through decentralization or deconcentration.<sup>3</sup>

The granting of autonomy or authority to each region to manage its own governance affairs is aimed at enabling each region to adjust its development according to the socio-cultural conditions, community conditions, and local 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, equity, justice, and consideration of regional diversity.<sup>4</sup>

The granting of autonomy to each region has led to the implementation of asymmetric decentralization policies or the granting of special autonomy to certain regions 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 special or exceptional regional government units regulated by law." This special autonomy is 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 the Province of Papua. This law then regulates all the authority, rights, and obligations of Papua in implementing special autonomy in its territory.

In implementing the special autonomy in Papua, the Papua People's Assembly (MRP) was established as a cultural representation of the indigenous Papuans, which has certain authorities aimed at protecting the rights of indigenous Papuans, based on respect for customs and culture, empowerment of women, and strengthening interfaith harmony.<sup>5</sup> The authority, rights, and obligations of the MRP are then

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<sup>3</sup> Aminah Aminah et al., "Implementation of The Effectiveness of Regional Autonomy in Indonesia," *Jejak* 14, no. 1 (2021): 123-133.

<sup>4</sup> 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.

<sup>5</sup> Andrizal Eddy Asnawi, Birman Simamora, "Otonomi Khusus Terhadap Eksistensi Negara Kesatuan Republik Indonesia," *Jurnal Analisis Hukum* 4, no. 2 (2021): 245.

regulated in Government Regulation Number 64 of 2008 concerning Amendments to Government Regulation Number 54 of 2004 concerning the Papua People's Assembly.

Basically, the granting of special autonomy and the existence of the Papua People's Assembly are aimed at improving the welfare and participation of the Papuan people in decision-making that affects and can impact the lives of the Papuan people. The granting of special autonomy and the existence of the Papua People's Assembly are backed by the numerous conflicts occurring in the Papua region, ranging from ideological conflicts, conflicts related to political aspirations on the issue of independence, to armed conflict.<sup>6</sup> In this case, the granting of special autonomy to the Papua region is expected to reduce and eliminate the number of conflicts occurring in Papua.

In resolving conflicts in Papua, the Papua People's Council plays an important role as the cultural representative of the indigenous Papuans. The Papua People's Council has primary authority, especially in ensuring the rights of the Papuan people and providing some considerations and approvals for draft legislation that will be implemented in Papua.<sup>7</sup> The very important role of the Papua People's Council still cannot escape from several issues in carrying out the functions of the Papua People's Council comprehensively. There are many challenges faced both in terms of implementation, enforcement of the functions of the Papua People's Council, and the effectiveness of the Papua People's Council in fostering justice for the Papuan people.

The ongoing emergence of several issues related to the role of the Papua People's Council in the implementation of special autonomy in Papua necessitates the need for a new method that can enhance the effectiveness and fairness of the Papua People's Council's role in the implementation of special autonomy in Papua. In this case, 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 decentralization and deconcentration system similar to the regional governance concept in Indonesia. In this case, France grants special autonomy rights to New Caledonia.<sup>8</sup> Thus, the New Caledonia region in France can be equated with the Papua region in Indonesia. If Papua has the Papua People's Assembly in its political institution, New Caledonia has the New Caledonia Representative in its political

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<sup>6</sup> Sekar Anggun Gading Pinilih Andreas M. W. Lesnussa, Amalia Diamantina, "Tugas Dan Fungsi Lembaga Majelis Rakyat Papua Barat Dalam Upaya Perlindungan Hak-Hak Dasar Orang Asli Papua Di Manokwari," *Diponegoro Law Journal* 13, no. 1 (2024): 1-17.

<sup>7</sup> Dicky Eko Prasetyo, "Perlindungan Dan Pengakuan Hak Ulayat Masyarakat Adat Biak Papua," *Realism: Law Review* 2, no. 1 (2024): 54-82.

<sup>8</sup> Triyoga Budi Prasetyo Windu Wahyu Wijaya, Moch. Afifuddin, "Strategi Prancis Menghadapi Ancaman Pertahanan Keamanan Di Pasifik (Studi Kasus Kontra Insurgensi Di Kaledonia Baru)," *Peperangan Asimetris* 7, no. 1 (2021): 72-102.

institution. Based on these factors, it is hoped that Indonesia can adopt a new mechanism based on legal comparison with France.

Research discussing the Papua People's Council (MRP) has indeed been conducted by several previous researchers. In this study, a brief overview is provided of three previous researchers who discussed the Papua People's Council (MRP), including (i) Fatmasari et al. (2023), who analyzed the relevance of special autonomy and the involvement of the Papua People's Council as a means to address potential conflicts inclusively.<sup>9</sup> Another study was conducted by (ii) Toroby and De Fretes (2024) focusing on the efforts to socialize the functions and authorities of the Papua People's Council (MRP) following the revision of the Papua Special Autonomy Law.<sup>10</sup> Research discussing the Papua People's Council (MRP) was also conducted by Koibur (2024), who analyzed the role of the Papua People's Council (MRP) and special autonomy for Papua as a means to channel the aspirations of the Papuan people, thereby mitigating various conflicts aimed at separating Papua from the Republic of Indonesia.<sup>11</sup> From the three previous studies mentioned above, the novelty of this research lies in the legal comparison aspect between Indonesia and France in relation to the implementation of a special autonomy. This emphasizes that this research is an original study.

## RESEARCH METHODS

This research is a legal study using a normative juridical research method aimed at examining several aspects related to the law and/or legislation enacted to resolve a legal issue.<sup>12</sup> This research uses a statutory approach, a case approach, and a comparative approach. In this case, the statutory approach will be conducted by reviewing and examining all laws and regulations related to the issue or problem being discussed, such as the Republic of Indonesia Law Number 2 of 2021 on the Second Amendment to the Republic of Indonesia Law Number 21 of 2001 on Special Autonomy for the Province of Papua and Government Regulation Number 64 of 2008 on the Amendment to Government Regulation Number 54 of 2004 on the Papua People's Assembly. Meanwhile, the case approach will be conducted by analyzing community conflict cases occurring in Papua.

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<sup>9</sup> Elva Imeldatur Rohmah Eka Putri Fatmasari, Lutfi Rifada, Syarifatun Nadliyah, Rohmatullah, Cindy Aura Cahyani, "Otonomi Khusus Sebagai Bentuk Desentralisasi Politik Pada Daerah Rentan Konflik," *Legacy: Jurnal Hukum dan Perundang-undangan* 3, no. 2 (2023): 181-198.

<sup>10</sup> Diego Romario De Fretes Renida Joselina Toroby, "Sosialisasi Pelaksanaan Tugas Dan Wewenang Majelis Rakyat Papua Pasca Perubahan Kedua Undang-Undang Nomor 21 Tahun 2001," *Melayani: Jurnal Pengabdian Kepada Masyarakat* 1, no. 3 (2024): 117-122.

<sup>11</sup> Samparisna Koibur, "Sejarah Otonomi Khusus Papua Sebuah Upaya Menyelesaikan Konflik," *Syntax Idea* 6, no. 9 (2024): 6075-6081.

<sup>12</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, 13th ed. (Jakarta: Kencana, 2017).

This research will also use a comparative legal approach with the law applicable in France. This research will use three types of legal materials, namely primary, secondary, and tertiary legal materials. Primary legal materials include the Republic of Indonesia Law Number 2 of 2021 concerning the Second Amendment to the Republic of Indonesia Law Number 21 of 2001 concerning Special Autonomy for the Province of Papua and Government Regulation Number 64 of 2008 concerning Amendments to Government Regulation Number 54 of 2004 concerning the Papua People's Assembly. Secondary legal materials include books and legal literature, legal journals, as well as legal papers and articles. Whereas for tertiary legal materials, it includes the internet or websites. Primary, secondary, and tertiary legal materials will be analyzed by the author using systematic (logical) interpretation, which is carried out by connecting one regulation with another regulation or one regulation with the unity of the legal system without deviating from the appropriate and applicable legal system.<sup>13</sup>

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<sup>13</sup> Sudikno Mertokusumo dan A. Pitlo, *Bab-Bab Tentang Penemuan Hukum* (Bandung: Citra Adhya Bakti, 2013).

## ANALYSIS AND DISCUSSION

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

Papua is a region rich in natural resources contained within it, often referred to as "heaven on earth" and nicknamed "the land of paradise".<sup>14</sup> Before the arrival of the Europeans, the region of Papua had been inhabited by indigenous tribes for thousands of years. After Indonesia gained its independence from the Netherlands in 1945, the status of Papua remained a subject of debate. In 1963, the Netherlands handed over the administration of West Papua to the UN, and in 1965, Indonesia took over the administration of Papua.<sup>15</sup> In 1973, President Suharto changed the name of Irian Barat to Irian Jaya.<sup>16</sup>

Based on the aspirations of the Papuan people who desire the return of the name Irian Jaya to Papua, the Irian Jaya Provincial Parliament, through Decree Number 7/DPRD/2000 dated August 16, 2000, restored the name Irian Jaya to Papua.<sup>17</sup> In 2004, the Papua region was divided by the Government into two provinces: the eastern part retained the name Papua Province, while the western part was named West Irian Jaya Province (Iriabar), which later changed its name to West Papua. In Papua Province, there was a regional expansion, which originally consisted of only Papua and West Papua Provinces, into six provinces, plus three new provinces officially inaugurated on November 11, 2022, namely Central Papua, Papua Mountains, and South Papua. Then, on December 9, 2022, the 38th province of Indonesia, Southwest Papua, was inaugurated.<sup>18</sup>

Papua is a region rich in extraordinary diversity, not only in terms of biodiversity and abundant natural resources but also in terms of social and cultural diversity, topography, and demographics.<sup>19</sup> This makes Papua and its inhabitants have unique and distinctive characteristics, thus requiring special policies or treatment. Papua, in addition to having vast land, also possesses abundant natural resources, such as mines, forest products, fishery yields, and so on, with an area of

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<sup>14</sup> V. W. Apriandini, D., & Soemarwi, "Relevansi Peran Pemerintah Atas Hak Menguasai Negara Dalam Pengelolaan Sumber Daya Alam," *Jurnal Serina Sosial Humaniora* 1, no. 1 (2023): 364–376.

<sup>15</sup> Ibid.

<sup>16</sup> Setiawati, S. M., *Masalah Perbatasan Dalam Politik Luar Negeri Indonesia* (Surabaya: Jakad Media Publishing, 2023).

<sup>17</sup> R. Katharina, *Menakar Capaian Otonomi Khusus Papua* (Jakarta: Yayasan Pustaka Obor Indonesia, 2019).

<sup>18</sup> J. Nashrullah, "Tantangan Penyelenggaraan Pemilu Dan Pilkada Serentak Nasional 2024 Di Empat Provinsi Baru Papua," *Lex Renaissance* 8, no. 2 (2023): 214–233.

<sup>19</sup> B. Anugerah, "Papua: Mengurai Konflik Dan Merumuskan Solusi," *Jurnal Lemhannas RI* 7, no. 4 (2019): 51–65.

approximately 421,981 KM<sup>2</sup> (3.5 times larger than the island of Java) featuring a topography that includes mountainous regions and mostly swampy land in the coastal areas.<sup>20</sup> Thus, it affects the economic life of the indigenous Papuan people, who are farmers and hunters.

The population in Papua is relatively small compared to its vast area and the average population of Indonesia in general at the regional government level. Although physically, the indigenous people of Papua share similarities in skin and hair color, they are very diverse in terms of social culture, language, and religion. This shows that the socio-cultural, economic, and political diversity among the Papuan tribes is very varied or heterogeneous. There are more than 250 ethnic groups in Papua with different cultures, languages, practices, and religions, resulting in many customary norms that apply in these six provinces. Additionally, there are around 100 non-Papuan ethnic groups. The influence of tribalism is still dominant, so incidents that show a lack of social harmony often end in acts of violence. In reality, social communication is limited and people are usually reluctant to interact with those from different ethnicities and religions. Conflict usually occurs when we cannot understand the plurality of these norms and values.<sup>21</sup>

The wealth of Papua, both in terms of natural resources and cultural richness, holds no significant meaning without being supported by adequate human resources. Problems arise when Papua's wealth is affected by a long history of conflict, which has significant humanitarian costs. The conflict that began with the Act of Free Choice (Pepera) in Papua, which was supervised by the UN and resulted in the approval of the majority of the Papuan population to join Indonesia, did not immediately resolve the issues because there were still controversies among certain groups.<sup>22</sup> Because, since joining Indonesia, Papua has become a center of conflict between the Indonesian government and some indigenous Papuans who support Papua's independence. This conflict encompasses issues such as human rights, economics, politics, and freedom of expression. To ease the tensions in Papua, the Indonesian government granted special autonomy status to regions in Papua Island to address issues of conflict and social tension.

Special autonomy for Papua and the MRP (Papua People's Council) are two important aspects within the framework of regional autonomy policy in Papua. Special autonomy for Papua emerged from various considerations of existing

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<sup>20</sup> D. E. Nurmiyati, N., & Rahmawati, "Politik Sumber Daya Alam: Studi Terhadap Kepentingan Elit Politik Lokal Dalam Pemekaran Wilayah Di Kabupaten Paser Provinsi Kalimantan Timur," *Jurnal Wacana Politik* 6, no. 1 (2021): 49-61.

<sup>21</sup> Y. Sugandi, *Analisis Konflik Dan Rekomendasi Kebijakan Mengenai Papua* (Jakarta: Friedrich-Ebert-Stiftung, 2008).

<sup>22</sup> U. Suropati, "Solusi Komprehensif Menuju Papua Baru: Penyelesaian Konflik Papua Secara Damai, Adil Dan Bermartabat," *Jurnal Lemhannas RI* 7, no. 1 (2019): 73-89.

aspects. In the political aspect, special autonomy for Papua was caused by the pressure from the Papuan people with the demand for Papua Merdeka from 1998-2000.<sup>23</sup> This is closely related to the very concerning socio-economic conditions in Papua. Fundamental issues such as the backwardness of the community's economy, the lack of quality public services, the still concerning state of infrastructure networks, and the low quality of Human Resources (HR) are the basis for the need for special treatment in the Papua region. Furthermore, as an effort to uplift the dignity and status of the indigenous Papuans within the framework of the Unitary State of the Republic of Indonesia (NKRI) through Special Autonomy for Papua, marked by the enactment of Law Number 21 of 2001 on Special Autonomy for the Province of Papua, Law Number 35 of 2008 on the Establishment of Government Regulation in Lieu of Law Number 1 of 2008 on Amendments to Law Number 21 of 2001 on Special Autonomy for the Province of Papua into Law, and Law Number 2 of 2021 on the Second Amendment to Law Number 21 of 2001 on Special Autonomy for the Province of Papua. (yang selanjutnya disebut UU Otsus).

Special autonomy is a special authority recognized and granted to the Province of Papua to regulate and manage the interests of the local community according to their own initiative based on the aspirations and fundamental rights of the Papuan people.<sup>24</sup> The special authority contains greater responsibilities for the Province of Papua and the people of Papua to administer governance and regulate the utilization of natural resources in the Province of Papua for the greatest benefit of the prosperity of the people of Papua as part of the Indonesian people in accordance with the laws and regulations.<sup>25</sup> The granting of this special autonomy is intended to realize justice, uphold the rule of law, respect human rights, accelerate economic development, and improve the welfare and progress of the Papuan people, within the framework of equality and balance with the progress of other provinces.<sup>26</sup>

After more than two decades of implementing special autonomy, it appears that the implementation of Papua's Special Autonomy, which currently covers six provinces, shows progress in development. However, some parties in Papua criticize that the development is primarily related to physical aspects alone, as there is still a perception that the development process has not fully provided a significant role to the indigenous Papuans. Nevertheless, it should be noted that in the implementation

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<sup>23</sup> N. M. Huda, *Problematika Otonomi Khusus Di Papua* (Yogyakarta: Nusamedia, 2021).

<sup>24</sup> 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.

<sup>25</sup> Musrafiyan Musrafiyan, Mutiara Fahmi, and Zahlul Pasha Karim, "Partai Politik Lokal Di Daerah Otonomi Khusus: Perbandingan Yuridis Aceh Dan Papua," *Jurnal Justisia : Jurnal Ilmu Hukum, Perundang-undangan dan Pranata Sosial* 6, no. 2 (2021): 179.

<sup>26</sup> LA Achmady, "Kekhususan Otonomi Khusus Papua," *Jurnal Dinamis Universitas Sains dan Teknologi Jayapura* 17, no. 1 (2020): 81-88.



of special autonomy, there have been several successes as well as failures. Even when a development program or project is carried out according to the established schedule and procedures, and does not violate legal regulations, the expected development results are often deemed unsatisfactory by the Papuan community.

If the granting of special autonomy is a response to past development mistakes, then similar mistakes must not be repeated in this era of special autonomy. This means that the goal 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. The emphasis on results and benefits is very important because many parties have noted that the strategies and approaches to development in Papua over the years have been more influenced by political policies and approaches than by welfare approaches, resulting in outcomes and benefits that do not align with the actual aspirations of the Papuan people.

There are various factors that significantly determine the success of the implementation of Otsus, as stated by public policy implementation experts, for example, it turns out that human resources and financial resources, as well as their allocation, have a major impact on the implementation of special autonomy.<sup>27</sup> In addition, policy environment factors, not only political ones as often considered the main obstacles in Papua, but also natural environmental conditions, such as topography and demographics, including the dispersed and relatively small population compared to the vast area of Papua, also have a significant impact on the implementation of special autonomy.<sup>28</sup>

The dynamics of implementing special autonomy in Papua show a non-linear pattern and tend to be erratic or irregular. Although initially this policy was accepted with high hopes as one of the solutions, it was politically a compromise step. Overall, the implementation of special autonomy initially faced various crucial challenges, making it seem to have only a limited practical impact due to difficulties in its implementation. However, gradually this policy began to be implemented, although still far from expectations, so 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 of Indonesia. Special autonomy and also broad autonomy are one of the variants of the decentralization

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<sup>27</sup> R. Edyanto, E., Agustang, A., Idkhan, A. M., & Rifdan, "Implementasi Kebijakan Otonomi Khusus (Otsus) Papua," *Jurnal Ilmu Sosial Dan Pendidikan* 5, no. 4 (2021): 1445-1451.

<sup>28</sup> Rindang Mustikawati and Arief Maulana, "Provinsi Papua Sebelum Dan Setelah 18 Tahun Pemberian Dana Otonomi Khusus," *Jurnal Public Policy* 6, no. 2 (2020): 81.

concept known as asymmetrical decentralization, which has been used post-reform. The purpose and goal are the same, namely to create improvements in the quality of governance. Specifically for Papua, the special autonomy policy is also intended to address various issues in Papua. In this context, there are several articles or provisions that are of a special nature, such as those regarding the MRP and special autonomy funds. The existence of Special Autonomy (Otsus) is expected to be an effective political formula to quell development complaints and the independence demands continuously voiced by the Papuans.

The Papua People's Council, hereinafter referred to as MRP, is the cultural representation of the Indigenous Papuans, which has certain authorities in the protection of Indigenous Papuan rights based on respect for customs and culture, women's empowerment, and the strengthening of interfaith harmony as regulated in the Special Autonomy Law. As one of the legislative bodies involved in the administration of government in Papua, which plays an important role in the implementation of Special Autonomy, the Papua People's Council, located in each provincial capital, has roles and functions generally carried out by legislative bodies, namely legislative, budgetary, and supervisory powers. The implementation of special autonomy is hindered by the suboptimal application of these three basic authorities, especially in achieving policy objectives. Generally, the role and function of the legislative body in the region have not yet been fully strong enough to balance the similar roles and functions held by the executive body, thus failing to conduct effective oversight to prevent deviations in the implementation of special autonomy, such as the misuse of funds or government power. By conducting effective oversight, the legislative body can encourage and ensure that programs or policies related to the implementation of special autonomy are carried out in accordance with the established operational standards.

Thus, the existence of special autonomy and the Papua People's Assembly essentially aims to improve the welfare and participation of the Papuan people in decision-making that affects their lives. However, the implementation of special autonomy and the role of the MRP do not always run smoothly, and there are still challenges and debates regarding the effectiveness and fairness of its implementation. In an effort to find a new mechanism related to special autonomy, it is necessary to compare the system with other countries that also recognize the term special autonomy, one of which is France. France is one of the countries located in Western Europe that is a Semi-Presidential Republic, adopting the values of "Liberty, Equality, Fraternity."<sup>29</sup>

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<sup>29</sup> Knut Rio, "Commons, Associations, and Possibilities of Egalitarian Life in Paris, France," *Social Analysis* 66, no. 3 (2022): 147-168.

Semi-Presidential Government is a combination of the semi-presidential system of government. Therefore, there are two Executive Leaders who have their respective roles, namely the President of France as the Head of State and the Prime Minister as the Head of Government.<sup>30</sup> There are responsibilities for the implementation of Government tasks that fundamentally remain in the hands of the Central Government, but 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 the regions to manage their own areas, thus creating a reciprocal relationship that leads to the establishment of authority and supervision relationships.

France is known as a country characterized by the dominance of a centralized Central Government, which creates government inefficiency, but also low public participation. The demand for changes in the local government system was driven by the French Revolution, resulting in a new structure of local government in France in December 1789.<sup>31</sup> The latest law governing the practice of local government in France is the Local Government Act of 1982, which has been amended several times to date. The regulation of decentralization is enshrined in the Constitution of the Fifth Republic of 1958, "France is an indivisible, secular, democratic, and social republic." Guaranteeing the equality of all races and religions, all beliefs organized based on a decentralized system. The decentralization policy in France is based on the French parliamentary law known as the Gaston Defferre Law of 1982. Before that law, the autonomy of French cities and departments was limited based on laws enacted in 1871 and 1884.

Therefore, the implementation of the Regional Government System in France is carried out by applying decentralization and deconcentration simultaneously and evenly, similar to the Regional Government in Indonesia. However, there is a difference in the concept of governance, as French autonomy is divided into four categories: institutional, legal, financial, and human resources, whereas 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.<sup>32</sup> Furthermore, since 1982, France has begun implementing decentralization by granting both political and administrative authority and freedom to autonomous local governments, which consist of<sup>33</sup>:

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<sup>30</sup> Matthew Søberg Shugart, "Semi-Presidential Systems: Dual Executive And Mixed Authority Patterns," *French Politics* 3, no. 3 (2005): 323-351.

<sup>31</sup> Ibid.

<sup>32</sup> Nanang Haryono, "Perbandingan Reformasi Manajemen Publik Indonesia Dan Perancis," *Jurnal Mediasosian : Jurnal Ilmu Sosial dan Administrasi Negara* 5, no. 2 (2021): 132.

<sup>33</sup> Ibid.

1. Regions were established since the implementation of decentralization in France in 1982, with the authority of the Regions including matters related to planning, regional management, economic development, etc. The current number of Regions is 22.
2. Departments were established since 1789, and currently, there are 96 Departments in the Metropole (the mainland region of France in Europe) and 4 overseas Departments. (Martinique, Guadelope, Reunion dan Guyane).
3. Commun (City) This institution was established in 1789 and is the lowest organization in the French government system. The number of Communes currently stands at nearly 37,000, with 80% of their populations being less than 1,000 people.

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. (Perjanjian Noumea 1998). Background of the Special Autonomy Grant 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 the independence and loyalist groups, which were followed by the signing of the Matignon-Oudinot Accords on June 26, 1988, by the Prime Minister of France, the independence groups, and the loyalist groups. This agreement guarantees institutional and economic development for 10 years, before New Caledonia determines its future.

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. Until finally, New Caledonia became a French territory with special autonomy rights. (*sui generis* collectivity). Similar to the special autonomy of Papua, which has its own authority, the special autonomy of New Caledonia also has a division of authority between France and the New Caledonia territory. The political institutions of New Caledonia include: the High Commissioner of France, the New Caledonia Representative, the Congress, and the New Caledonia Government. Therefore, it can be understood that the existence of the New Caledonia Representative is similar to the Papua People's Assembly Institution.

Based on Article 1, point 8 of Law No. 2 of 2021 concerning the Second Amendment to Law No. 21 of 2021 on Special Autonomy for the Province of Papua, which explains the authority and position of the MRP in administering governance as a cultural representation of the 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 inter-religious harmony as regulated by the Law. With the existence of the MRP, it is expected to accommodate

the marginalized Papuan community, in line with the main ideas presented in the formulation of the Special Autonomy Bill.<sup>34</sup> Therefore, the MRP was established as a representative institution granted special authority, roles, and functions to realize the goals of the Papuan people. Meanwhile, based on the philosophical aspects of the Papua Special Autonomy Law, it conveys that the indigenous Papuans must be able to live independently and prosperously in the economic, political, and social fields. However, the local government has so far been considered not to have fulfilled the aspirations to meet the needs of the indigenous Papuans, thus requiring governmental means and instruments.

MRP also has special authority, one of which is to provide consideration and approval for the draft *Perdatus* resulting from discussions between the Papua Regional Representative Council (DPRP) and the Governor. The authority granted to the MRP cannot be considered legislative authority because, according to the provisions of Article 6, paragraph (1), legislative power is exercised by the DPRP. The MRP's special authority to provide consideration and approval for the *Perdatus* is not accompanied by the authority to request a review of the *Perdatus*.<sup>35</sup> Regarding this matter, it differs from the provisions mentioned in Article 21 paragraph (1) letters a and b, which state that the MRP has the right to raise questions and submit proposals and opinions regarding the *Perdasi* and the Governor's decisions that contradict the protection of the rights of indigenous Papuans. The regulations related to the procedures for the implementation of the MRP's authority to provide considerations and approvals for the *Perdatus* are explained in Article 38 of Government Regulation Number 54 of 2004 concerning the Papua People's Assembly, jo. Articles 8-13 of *Perdatus* Number 4 of 2008 concerning the Implementation of the Duties and Authority of the Papua People's Assembly. The duties and authority of the MRP are detailed and explained in Article 20 paragraph (1) of the *Otsus* Law, where the MRP has duties and authority:

- a. provide consideration and approval for the prospective candidates for Governor and Deputy Governor proposed by the regional head election organizers;
- b. provide consideration and approval for the Draft Regional Regulation on Special Autonomy proposed by the Regional People's Representative Council (DPRP) together with the Governor;
- c. provide advice, considerations, and approval for cooperation agreement plans, whether made by the Government or the Provincial Government of Pa-

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<sup>34</sup> Suharyo Suharyo, "Otonomi Khusus Di Aceh Dan Papua Di Tengah Fenomena Korupsi, Suatu Strategi Penindakan Hukum," *Jurnal Penelitian Hukum De Jure* 18, no. 3 (2018): 305.

<sup>35</sup> A. Sakti R.S. Rakia, "Kewenangan Khusus Majelis Rakyat Papua Terhadap Pembentukan *Perdatus*," *Justisi* 7, no. 1 (2021): 15.

pua with third parties applicable in the Province of Papua, specifically concerning the protection of the rights of Indigenous Papuans;

- d. paying attention to and channeling the aspirations and complaints of indigenous people, religious communities, women, and society in general regarding the rights of Indigenous Papuans, as well as facilitating the follow-up resolution; and
- e. providing 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 mentioned in Article 22 paragraph (1), which consists of:

- a. asking a question;
- b. to convey proposals and opinions;
- c. immunity;
- d. having to do with protocol; and
- e. administrative finance.

Based on the MRP rights, both institutional rights and member rights in the Article are essentially the same as legislative rights in general. However, the Special Autonomy Law has not clearly regulated the MRP's right to question the government. If we look at it, there are basically no provisions that clearly explain whether the MRP is a regional legislative body or merely a representation institution for OAP. Generally, it is still unclear what external regulations can be formed by the MRP, which reflect regional legislative bodies in general.

## **B. The Role of the Papua People's Council in Addressing Community Conflicts in the Papua Region**

The conflict in Papua has intensified since the end of 2018 due to the Nduga attack and the 2019 protests in Papua. The conflict in the Papuan community is caused by several factors, including historical disputes related to the integration of West Irian into Indonesia, unresolved human rights violations, and the increasing marginalization and discrimination against Papuans that remain unresolved.<sup>36</sup> Additionally, the factors causing the conflict in Papua, according to the Chairperson of the National Commission on Human Rights, Atnike Nova Sigiri, state that the first cause of the

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<sup>36</sup> Wendsney A. Sadi Tangguh Chairil, "Konflik Papua: Pemerintah Perlu Mengubah Pendekatan Keamanan Dengan Pendekatan Humanis," 2020, <https://www.voaindonesia.com/a/komnas-ham-konflik-di-papua-berlatar-banyak-isu/7006133.html>.

conflict is ideological in nature and relates to the political aspirations of the independence issue.<sup>37</sup> In this conflict, it has resulted in the involvement of pro-independence groups, armed groups, and the military and police. The second cause is the economic issue, this conflict is related to the infrastructure and facilities concerning economic resources that involve the residents and corporations or the government. The third cause is political issues; conflicts arise due to the formation and implementation of central government policies, which usually receive rejection and criticism from local residents. The fourth cause is socio-cultural issues; conflicts occur between Papuans and non-Papuans.

Unresolved cases to this day in Papua, according to the Democracy Alliance for Papua, state that from January to November 2023, there have been 56 recorded cases of violence and armed conflict. These conflicts involve and affect civilians, TNI personnel, POLRI, and the armed group TPNPB in Papua. The impact of these armed violent conflicts includes damage to public facilities such as government offices, schools, airports, and others. In addition, it also resulted in casualties, including 44 civilians, 22 TNI members, 5 POLRI members, and 10 TPNPB members.<sup>38</sup> In this case, it also resulted in an increase in refugees from the OAP and non-OAP civilian communities. Additionally, another source of conflict is the Papua Special Autonomy Law and regional expansion, which are policies that contradict 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 are fighting for independence as their own nation and separating from Indonesia. The Indonesian government, in addressing this conflict, has made every effort and endeavor to resolve it. One of the efforts undertaken by the Indonesian government to resolve the conflict is by granting and implementing Special Autonomy for Papua. Historically, the emergence of Special Autonomy is rooted in the history of the Papuan people who have fought to resolve the conflict between the Indonesian government and the Papuan community. For the Indonesian government, granting Special Autonomy to Papua is expected to be the best choice as an effort to suppress the Papuan people who wish to separate and demand independence. This is because the existence of an autonomous region within a country (a self-governing intra-state region) serves as a means to resolve internal conflicts. There-

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<sup>37</sup> Anugrah Andriansyah, "Komnas HAM: Konflik Di Papua Berlatar Banyak Isu," 2023, <https://www.voaindonesia.com/a/komnas-ham-konflik-di-papua-berlatar-banyak-isu/7006133.html>.

<sup>38</sup> Nurhadi Sucahyo, "Kekerasan Di Papua: Akhir Tahun Kelam, Awal Tahun Muram," 2024, <https://www.voaindonesia.com/a/kekerasan-di-papua-akhir-tahun-kelam-awal-tahun-muram/7427772.html>.

fore, the central government is compelled to establish autonomous regions as intra-state regions with a unique level of local self-government.<sup>39</sup>

Based on the process of formation and implementation of special autonomy, various obstacles and issues still persist, such as the lack of trust between the Indonesian government and the Papuan people in the implementation process of special autonomy. This has resulted in the persistence of various issues after the implementation of special autonomy, such as representation problems, policies that do not align with local culture, disparities in the exploitation and management of natural resources, and gaps between local community groups, all of which contribute to conflict. Thus, with the many issues still present in the formation and implementation of special autonomy in Papua, the application of special autonomy in Papua can be said to have not yet helped the Papuan people achieve the level of welfare in accordance with the intended goals.

Looking at the series of conflicts arising from the granting of Special Autonomy to the Papua region and the numerous discourses emerging, such as national disintegration among Papuan officials, there is a need for an important role from the Papuan People's Assembly as one of the representatives of the Papuan people in addressing this conflict. In essence, the granting of special autonomy to the Papua Government is intended as a conflict alleviation measure in the region. However, in reality, the implementation process of this special autonomy has not been carried out effectively and optimally. The presence of special autonomy as a remedy for the Papuan people has instead given rise to various conflicts and violence that remain unresolved. Therefore, the roles of the Papua People's Assembly are needed to address these issues.

The Papua People's Council, which is a representative of the Papuan people, is established based on Government Regulation Number 54 of 2004 as amended by Government Regulation Number 64 of 2008 concerning the Papua People's Council. It explains that the Papua People's Council, hereinafter referred to as MRP, plays a role in providing considerations and approvals in the formulation of regional policies, in the context of equality and diversity of Papuan society, preserving Papuan culture and natural environment. The presence of MRP is a cultural representation of the indigenous Papuan people who have certain authorities in the protection of the indigenous Papuan rights based on respect for customs and culture, empowerment of women, and the strengthening of inter-religious harmony.

The birth of the Papua Special Autonomy Law brings a particular bias, especially in protecting the rights of Papua citizens with the establishment of a cultural

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<sup>39</sup> Eddy Asnawi, Birman Simamora, "Otonomi Khusus Terhadap Eksistensi Negara Kesatuan Republik Indonesia."



institution, namely the MRP. The presence of the MRP plays an important role in regulating the implementation of special autonomy, with various roles and authorities of the MRP in safeguarding the rights of citizens, among others:

1. MRP provides protection for citizens' rights so that they do not disappear with the evolving dynamics of life in development in Papua;
2. MRP provides consideration and approval for the pairs of prospective Governor and Deputy Governor candidates proposed by the DPRP;
3. 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 for cooperation agreement plans made by the provincial government with third parties applicable in the Papua region, specifically concerning the protection of the rights of indigenous Papuans;
5. 5. Paying attention to and channeling the aspirations and complaints of indigenous communities, religious groups, women, and the general public regarding the rights of indigenous Papuans, as well as facilitating the follow-up resolution;
6. 6. Providing 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 one of the regions in Indonesia that is rich in biodiversity, natural resources, socio-culture, topography, and demography. The relatively small population of Papua compared to its vast area, along with the diverse ethnicities and communities in Papua, often leads the Papuan people to experience various conflicts both with the government and among community groups. To address these issues, the Indonesian government has implemented a special autonomy policy in the Papua region to manage the various conflicts that arise.

The special autonomy policy in Papua is inseparable from the presence of the representative cultural institution of the indigenous Papuans, namely the Papuan People's Assembly (MRP). The presence of Special Autonomy in Papua and the Papuan People's Assembly is aimed at improving the welfare and participation of the Papuan people. However, the implementation of the Otsus policy and the presence of the MRP actually face challenges related to the effectiveness of the institution's execution and whether the special autonomy provided has given a sense of justice. To find a new positive renewal, this paper compares the special autonomy system with that of France. One form of special autonomy in France is the emergence of New Cal-

edonia, a French territory granted special autonomy in the Pacific Ocean. Similar to the special autonomy in Papua, the special autonomy in New Caledonia also has its own division of authority, particularly in the economic sector, and New Caledonia also has a representative institution like the MRP based on the Nouméa Accord.

The emergence of the MRP has primary authority, particularly in guaranteeing the rights of the people of Papua, such as approving and considering draft special regional regulations, and then providing input in the election of regional heads in Papua. The establishment of the MRP in the Papua Region is very crucial due to the frequent occurrence of social conflicts in the Papua Region, such as human rights violations, violence by security forces, 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, serving as a mediator and shield for the Papuan community so that the rights of every citizen are not disturbed and that every person in the Papua region can feel the impact of Special Autonomy in the Papua region.

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