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## Continuing the Limited Authority of the Majelis Rakyat Papua; A Missed Opportunity

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### Abstract

The Papuan People's Assembly (Majelis Rakyat Papua-MRP) is a cultural representation of the Papuan people, which has an important role in protecting the rights of the Papuan people in the fields of customs and culture, empowering women, and religious harmony. So far, the authority of the MRP is quite limited because it is not supported by a strong legislative function. In 2021, the Papua Special Autonomy Law, which has been in effect since 2001, underwent significant changes. In this study, we conclude that the amendment to the Special Autonomy Law for Papua does not reflect the aspirations of the Papuan people, especially the consideration of strengthening the MRP institution. We also provide several reasons why the MRP institution should be strengthened so that changes to the Papua Special Autonomy Law can benefit the province of Papua.

### Keywords

**Majelis Rakyat Papua; the Papuan People's Assembly; Papua Special Autonomy; Papua Province; Regional Legislative Function**

## Introduction

The provinces of Papua and West Papua are two of Indonesia's territories that have been granted Special Autonomy. The legal basis for implementing special autonomy for the province of Papua is Law 35 of 2008 (hereinafter referred to as the Special Autonomy Law). The granting of this special autonomy is in order to provide welfare for the Papuan people, especially with regard to the mechanism of regional regulation in particular.

One of the special things that characterizes the Special Autonomy Law is the existence of the Papuan People's Assembly (Majelis Rakia Papua – MRP). The MRP is a cultural representation of Indigenous Papuans (Papuan Orang Asli – OAP), which has certain powers in the context of protecting the rights of Indigenous Papuans based on respect for customs and culture, empowering women, and strengthening religious harmony ([Bauw 2018](#)). Therefore, the position of the MRP in Papua is very important in developing aspirations to be further shaped into strategic policies for the survival of the Papuan people.

The position of the MRP as an institution that represents the existence of the Papuan people is also very important in conveying the aspirations of the Papuan people. However, the MRP is considered not to have worked optimally. The MRP has not been able to answer the challenge as a representative of the Papuan community because it cannot carry out its functions and authorities as a cultural institution ([Suebu 2019](#)). The MRP has also not been able to play an important role in representing Papuan indigenous peoples and has not fully affirmed its legitimacy in its contestation with other representative bodies ([Haryanto, Lay and Purwoko 2018](#)). The MRP is considered not to have fully provided protection to the Papuan people, due to the slow pace of the Provincial Government and the People's Representative Council of Papua (Dewan Perwakilan Rakyat Papua - DPRP) in forming a *perdasus* that regulates operational technicalities in carrying out the duties and authorities of the MRP mandated by the Special Autonomy Law ([Priyani 2019](#)). The terms *perdasus*, *perdasu* and *raperdasus* will be explained below.

One of the obstacles faced by the MRP is its very limited authority in the formation of the Papua Special Regional Regulations (*Perdasus*). In carrying out its legislative function, the MRP is limited because it only has the authority to give consideration and approval in the formation of a *Perdasus* ([Rakia 2021](#)). The MRP does not have a "veto power" that can be used when a Draft *Perdasus* (*Raperdasus*) is not culturally appropriate to the needs of the Papuan people. With this situation, it is difficult for the MRP to adjust the *Raperdasus* according to the needs of the Papuan people because it does not have the authority.

In 2021, the Special Autonomy Law was changed to Law Number 2 of 2021. This change aimed to accelerate welfare development and improve the quality of public services as well as the sustainability of development in the Papua region. This was an effort to continue and optimize revenue management in the context of implementing Special Autonomy for the Papua Province in an accountable, efficient, effective, transparent and targeted manner. Amendments to the Special Autonomy Law were also presented in the context of strengthening the arrangement of provincial areas in the Papua region in accordance with the needs, developments, and aspirations of the Papuan people. Even so, the Amendment to the Special Autonomy Law does not seem to have focussed on overcoming a number of problems related to the authority of the MRP as a cultural representation institution for the Papuan people and has met with opposition from the Papuan people. The purpose of this study is to find out how the MRP has functioned as a cultural representation institution for the Papuan people so far, and how the results of changes to the Papua Special Autonomy Law, may strengthen the MRP institution.

## Methods

In this discussion, the type of research used is a normative-juridical type of legal research, which refers to the legal norms of statutory approach, as well as legal theories and principles as supporters. This research is descriptive-analytical, using qualitative analysis methods.

## The Concept of Implementation of Special Autonomy for Papua Province

The Indonesian Constitution states that the Indonesian state adheres to a unitary state system in the form of a republic. In the past, Indonesia had adopted a federal and parliamentary system as a result of the Renville agreement, marking the end of Dutch colonial rule, which tended to be unfavorable to the new state of Indonesia (Khalidun & Suparjan, 2021). The Indonesian people believed that a federal system of government was not implemented purely because the Renville Agreement was motivated by divide and rule politics (Ginting 2017), so all regions decided to join Indonesia which was then formed under the Provisional Constitution of the Republic of Indonesia 1950 (UUDS 1950). Furthermore, the development of the regional government system in Indonesia in the context of the characteristics of a unitary state system did not go well, so that there was constant pressure from the people (Rasyid 2017). In the development of an appropriate model of government, President Abdurahman Wahid applied (1999-2001) to implement the concept of a federal system without changing the Indonesian system of a unitary state, thus giving birth to the concept of regional autonomy. The concept of regional autonomy is divided into ordinary regional autonomy and special autonomy which is usually termed asymmetric decentralization (Susanto 2019).

The constitutional basis for the implementation of Special Autonomy for the Papua Province comes from the provisions of Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, namely, "The state recognizes and respects regional government units that are special or special in nature regulated by law". On November 21, 2001, the Special Autonomy Law was first enacted with the nomenclature "Law Number 21 of 2001". The philosophy of the Special Autonomy Law aims to achieve independence and physical and spiritual well-being, both economically, politically, and socially for the Papuan people (Gani & Aituru 2018). In addition, the Special Autonomy Law is a very important and fundamental political compromise with a view to responding to demands for self-determination by the Papuan people (Mutuqin 2014). The enactment of the Special Autonomy Law in Papua Province can be regarded as granting exclusive authority compared to the more general regional autonomy in Indonesia (Musa'ad 2010).

The fundamental elements that make up Papua's exceptional autonomy are: first, the rules of jurisdiction between the Government of Indonesia and the Papua Provincial Government, as well as the specific application of this authority in the Papua Province; second, the requirement for the recognition and respect of indigenous Papuans' basic rights, as well as their strategic and fundamental empowerment. The third element is the achievement of excellent governance through:

- a. People's greatest engagement in the formulation, application, and monitoring of government administration and improvement through the involvement of representatives from adat (*customs*), religious, and females;
- b. The realization of advancement that is focused on meeting the fundamental requirements of the Papuans specifically and the community of the Papua province broadly, while adhering to the focus on environmental conservation, equality, and immediate benefits to the society;
- c. Transparent and accountable governance and development (Rakia 2019; Reumi 2020).

Based on the three factors listed above, it is apparent that the Special Autonomy Law 2001 had the goal of providing Papua Region exceptional autonomy privileges, in order to provide great advantages to the citizens of Papua. As a result, offering the Papua Provincial government a particular autonomy mandate is more than merely a conditional practical political promise (Citrawan 2012), but a strategic policy for the survival of the Papuan people.

In spite of the Indonesian unitary state system, the partnership between both the central government and the province of Papua is governed by a complex set of rules. In terms of local government authority,

Papua Province has had power across all aspects of government, with the exception of foreign policy, defense and security, fiscal and monetary policy regulation, religious, and the judiciary, as well as certain additional authorities prescribed by statutory rules. For example, the Papuan local government is also given the authority for international agreements, or international cooperation, that is beneficial to the provincial government of Papua and the Papuan people.

In terms of regulation, the Province of Papua can form two unique regulations that are not permitted to other local governments in Indonesia, namely Special Provincial laws (Perdatus) and Provincial laws (Perdasi). Perdatus is a regional regulation enacted by the Papua Province in order to enforce certain articles of the Papua Special Autonomy Law, while a Perdasi is a Papua Province Regional Regulation in the context of implementing the authorities regulated in laws and regulations.

In terms of regional finances, it is stipulated in the old Special Autonomy Law that the source of revenue for the Papua region is obtained from regional original income (Pendapatan Asli Daerah-PAD); Dana Perimbangan (fiscal balance transfers from the central government to regions); revenue from the provinces in the context of exclusive autonomy; regional loans; and other legitimate regional income. Meanwhile, PAD is obtained from regional taxes, regional retributions, regional company profits, the results of regional natural wealth management, as well as other legitimate income. The presentation of profit sharing between the Papua provincial government and the Papua regency/city government are:

- a. Tax Results:
  - Land and Building Tax of 90%.
  - Personal tax of 20%.
- b. Results of natural resources:
  - Forest products by 80%.
  - Fishery sector by 80%.
  - General mining by 80%.
  - Petroleum mining by 70%.
  - Mining of natural gas by 70%.

The provision of special autonomy funds for Papua is regulated in the Regulation of the Minister of Finance of the Republic of Indonesia Number: 196/PMK.07/2013 (revised in 2013), amounting to 2% of the total annual national budget. Meanwhile, the natural resource revenue-sharing fund between the central government and the Papuan government is regulated in the Regulation of the Minister of Finance of the Republic of Indonesia Number: 09/PMK.07/2012, namely:

- a. Petroleum Mining is 55% of the estimated total state revenue originating from the Papua Province Petroleum Natural Resources.
- b. Natural Gas Mining is 40% of the estimated total state revenue originating from the Papua Province Natural Gas Natural Resources.

## The Authority of the Papuan People's Assembly

In the context of implementing the provisions of the Special Autonomy Law, Papua Province is given the authority to form supporting institutions in the context of implementing the content of the Special Autonomy Law. The regional institutions that have been formed have characteristics that are not shared by other regions in Indonesia which only get ordinary regional autonomy. In accordance with the specialized autonomy regulation, the Governor of Papua Province must come from the Papuan community so that there is no possibility for non-Papuan residents to serve as Governor of Papua. In terms of legislation, Papua

Province can form the People's Representative Council of Papuans (DPRP) which is equivalent to DPRD in other regions. In addition, the Papuan People's Council (MRP) also exists in Papua Province as a cultural institution that represents the Papuan Orang Asli (OAP).

The MRP has several powers in implementing the Special Autonomy Law in Papua. The powers of the MRP are as follows:

- a. offer consideration and agreement to the DPRP's nominees for Governor and Deputy Governor;
- b. consider and approve regional delegates representing Papua Province suggested by the DPRP as candidates for the People's Consultative Assembly of the Republic of Indonesia;
- c. consider and approve the DPRP's Drafting Perdasus, which was created in consultation with the Governor.
- d. provide advice on proposed cooperation agreements being considered and approved in Papua Province and also on the Provincial Government's dealings with third party companies in Papua Province, particularly in relation to the protection of indigenous Papuans' rights;
- e. listen closely and convey the aspirations of the people, indigenous people's complaints, the views of religion congregations, women and society as a whole concerning indigenous Papuans' rights, as well as facilitating follow-up settlements; then
- f. consider the DPRP, Governor's Office, the City/ Regency DPRD as well as the Mayor/ Regent regarding matters relating to the safeguarding of indigenous Papuans' rights.

In addition, the MRP also has several rights under the Special Autonomy Law, namely:

- a. enquire with the Provincial Government, Regency/Municipal Governments in matters pertaining to the protection of indigenous Papuans' rights;
- b. enquire about a Perdasi review or a Decree of the Governor which is considered to be contrary to the safeguarding of indigenous Papuans' rights;
- c. propose the MRP Expenditure Budget Estimates to the DPRP as an essential component of the Papua Province Regional Revenue and Expenditure Budget; and
- d. stipulate the MRP Rules of Conduct.

These powers are only general authorities which are further spelled out in more detail in the Perdasus as the legal basis for the MRP's authority in the implementation of regional government in Papua Province.

One of the MRP's key powers is the authority in the field of legislation. The legal basis for the MRP legislation is Article 20 paragraph (1) c, namely, considering and approving the Draft Perdasus provided by the DPRP in collaboration with the Government. However, this article has a weakness because it does not provide wider access to the MRP in carrying out its legislative functions. In the formation of a Perdasus, the MRP is only given legislative authority to the extent of "giving consideration and approval", without having the right to veto the Draft Perdasus (Raperdasus), if the Perdasus is deemed to be contrary to the substance of the Perdasus. The weakness of the MRP's authority in the legislative function can affect the involvement of the MRP in determining local government policies.

## Legislation Functions of the Papuan People's Assembly after the Amendment to the Special Autonomy Law

Amendments to a law in Indonesia are made based on Law Number 15 of 2019, as well as Presidential Regulation Number 87 of 2014 as a guide in the formation of legislation, including procedures for amending a law (Rakia, 2021). In the provisions of Article 10 paragraph 1 b of Law 15 of 2019 it is stated

that the formation of the content of the Law must reflect “fulfilling legal needs in society”. Then in Article 96 of Law Number 15 of 2019 it is stated that “the public has the right to be involved in the process of forming laws”. In the context of the changes to the Special Autonomy Law, it makes sense that the changes to this law should involve the participation of the Papuan people as an important part of the new articles compiled in these changes.

The process of public participation in the formation and amendment of laws in Indonesia is carried out by means of (i) public hearings; (ii) working visits; (iii) socialization; and (iv) seminars, workshops or discussions. The process of amending the Special Autonomy Law was carried out openly, and was broadcast on the official television owned by the DPR RI (DPR RI 2021). However, such public implementation and broadcasting cannot always be interpreted as “participation” because it is carried out based on a number of rules and limited authority. This means that not all parties were involved in the process of consultation involved in changing the Special Autonomy Law. This affected the amount of Papuan community participation, which was represented by a small number of officials and stakeholders. Previously, the Governor of Papua had proposed five main frameworks that the Central Government and DPR RI should pay attention to as revision guidelines, namely aspects of authority, institutions, finance, development policies, as well as classical issues related to politics, law, and human rights in Papua (Fretes, 2021). These were not taken into account in the discussions.

There are some significant changes in the amendments to the Special Autonomy Law. It was argued that there were several inadequate provisions in the Law. The changes included: establishing a legal basis to ensure the sustainability of the awarding of special autonomy grants for the Papua province, as well as to accelerate development and increase equitable development in Papua; the addition of new legal provisions that are in accordance with the political, economic, and socio-cultural conditions that develop in the community; changes in the amount of special autonomy funds and financial mechanisms and governance to make the special autonomy funds more effective and efficient. The changes related to financial amounts as well as financial mechanisms and governance are not only directed at improving the governance of the Special Autonomy funds, but also to promote development synergies between the central government and local governments, Papua Provincial Governments, and Regency/City Regional Governments.

Other changes included reinforcing the central government’s alignment with Papuan Indigenous People, by encouraging the preparation of a master plan for education, health, and community economic empowerment in order to improve community welfare; reducing the gap between regions in Papua by opening a bottom-up and top-down regional management approach based on the principles of democracy and efficiency; in order to protect and improve the dignity of the Papuan Indigenous People, a new article was added relating to the Regency/City House of Representatives (DPRK). Previously, the members of the Regency/City DPRD had been elected through general elections, but through this new mechanism members will be appointed as a proportion of the available seats. Further, a special agency is to be established to synchronize, harmonize, evaluate, and coordinate the implementation of the Special Autonomy Law and development in the Papua region as an effort to increase the effectiveness and efficiency of development in Papua, to be chaired by the Indonesian Vice President and with an office in the region.

Previously, based on the Special Autonomy Law 2001, the Papuan people could form local political parties by prioritizing indigenous Papuans. However, this provision has been removed because for 20 years, no local political party has existed in Papua. Instead, in the amendment to the Special Autonomy Law, every national political party in Papua is obliged to prioritize the Papuan people. This is seen as watering down the autonomy of the Papuan people.

From all the changes that have been made, it is known that there are no significant changes to the development of the MRP’s authority in the field of legislation. In the 5 main frameworks recommended by the Governor of Papua, the authority of the institution should have been prioritized. However, instead of

enhancing the MRP's legislative function related to the formation of the *Perdatus*, in the latest amendment to the Special Autonomy Law, the MRP's authority has been reduced. One aspect of this concerns the MRP's approval of members' candidates for the Republic of Indonesia's People's Consultative Assembly (MPR RI) as delegates to the Province of Papua region as suggested by the DPRP. It is argued that the revocation of this provision is understandable because in the Indonesian constitutional system, members of the MPR RI consist of a combination of the Republic of Indonesia's People's Representative Council (DPR RI) and the Republic of Indonesia's Regional Representative Council (DPD RI). Practically, every member who joins the MPR RI does not need approval from anyone. However, this further weakens the MRP.

## The Effect of Amendments to the Papua Special Autonomy Law on the Legislative Function of the MRP

In fact, the MRP's authority is a dilemma in itself. On the one hand, the MRP is given the authority related to the aspirations of the Papuan people. This is a special authority that other regions in Indonesia do not have ([Gani & Simanjuntak 2019](#)). But on the other hand, the MRP does not have the support of a powerful legislative authority. In the establishment of the *Perdatus*, the MRP's legislative authority is confined to 'providing consideration' and 'giving consent'. Therefore, the MRP does not have the authority to veto the *Raperdatus* formed by the Governor of Papua and the DPRP. One study stated that the MRP was quite effective in forming the *Perdatus* ([Bonso & Lawelai 2020](#)), however, it should be remembered that forming a *Perdatus* is not within the MRP's authority, because the MRP is only given the authority to 'give consideration' and 'give approval'.

The change in the name of Irian Jaya to Papua based on the Indonesian unitary state system was actually to allow for a different regulatory pattern that is quite pluralist ([Wospakrik 2020](#)). This is also very much in line with the concept of asymmetric decentralization used by the Indonesian state ([Kesuma Nasution 2016](#)). This is the basis for thinking about the establishment of Papuan Special Autonomy. However, the changes to the Special Autonomy Law in 2021 have not reflected this, as changes seem to treat Papua as any other province in Indonesia. Further, the position of the MRP remains unclear, with the question of whether it is a legislative, semi-legislative, or just a cultural institution.

The legislators seem to have overlooked this anomaly, so the position of the MRP has not changed, with the result that it cannot make much of a contribution in relation to the formulation of regional policies because of its limited authority to do so. Previously, Papua had an institution with the *Nieuw Guinea Raad* (NGR) nomenclature which was established in 1961. This institution had the authority, including among others, the right to petition or submit applications, the right to interpellate or request information and the right to provide advice on laws and government regulations ([Meteray 2016](#)). With this right, NGR could control the implementation of government if the government process was not carried out based on the needs of the Papuan people. The rights of the NGR were quite strong compared to the MRP with regard to the formation of regulations in the province of Papua.

The authority to form the *Perdatus* is given to the Governor of Papua and the DPRP. Basically, these two institutions have strong political influence because they are elected through political party procedures. This is different from the MRP whose members are selected from the indigenous Papuan people. We can say that compared to the Governor of Papua and the DPRP, the position of the MRP is more representative of the Papuan people. Amendments to the Special Autonomy Law, which do not review the strategic position of the MRP in the portion of the *Perdatus* formation, do not significantly change the establishment of Papuan Special Autonomy. An analysis of data that describes the effect of the MRP policy in favor of the Papuan people concluded that, in fact, many of the recommendations from the MRP were not implemented in the formation of government policies, because they were influenced by unclear legislative policies and an unstable election process in the context of filling government positions ([Ningmabin 2009](#)).

Although it is recognized that the implementation of Special Autonomy is quite complicated because it has experienced several sociological and political obstacles, such as in Sabah and Sarawak, Malaysia ([Salleh, Puyok & Bagang 2019](#)), or in Aceh, Indonesia ([Cahyono 2016](#)), the need for regional development in Papua in the momentum of changing the Law relating to special autonomy (also known as Otsus) should be carried out with full appreciation of the constitutional order. The effectiveness of the implementation of special autonomy in Papua is quite weak because it is also influenced by the formation of an inefficient and ineffective Perdasus ([Rochendi & Saleh 2017](#)).

## Papuan Community Responses

Constraints that occur in the process of forming laws do occur in almost all countries. The formation of laws that directly involve the community is minimal, as for example in the city of Tyumen, Russia, which shows the lack of community involvement in the legislative process ([Mamontova & Gladun 2021](#)). In Australia, the amount of community involvement is also quite small so that the government was encouraged to be more aggressive in conducting surveys of community aspirations ([Aulich 2009](#)). A further example is the existence of the European citizens' initiative (ECI), which questions the extent to which people's aspirations are considered ([Vogiatzis 2017](#)). Weak public participation in the formation of regulations and policies is influenced by the politics of the government bureaucracy which tends to be stronger. At least, public participation can be seen if the process of changing the law is carried out over an extended period of time, sufficient to accommodate consultation with the entire community.

The debate about the 'participation' of the Papuan people in the changes to the Special Autonomy Law is indeed diverse. This encouragement came from various parties so that the transparency of changes to the Special Autonomy Law could be beneficial, especially for the Papuan people ([Okezone 2020](#)). Based on information from the government, the mechanism for amending the Special Autonomy Law was implemented based on legal mechanisms, including in terms of absorbing the aspirations of the Papuan people ([DPR RI 2021](#)). However, West Papua senator Filep Wamafma, once said that he hoped that in the process of amending the special autonomy law the government would involve the Papuan People's Assembly (Majelis Rakyat Papua-MRP) and the West Papuan People's Assembly (Majelis Rakyat Papua Barat-MRPB) in discussing the revision of the Special Autonomy Law ([JPNN,2021](#)). All of these debates are expressed in person or through local and online media, which essentially questions the urgency of changing the Special Autonomy Law, because several things that are recommended in the amendment to the Special Autonomy Law, such as supporting the people and women of Papua, natural resources, and affirmations to the people of Papua, must be considered ([Detik 2021](#)).

The change in the Papua Special Autonomy Law may be good, but that does not mean that the change is a change that the Papuan people want. Indeed, there has been strong opposition to the changes, through protests and a petition signed by 714,066 Papuans and 112 organisations (Asia Pacific Report 2021). Changes to the Special Autonomy Law made with legal legitimacy naturally have to be carried out under the old Special Autonomy Law, because there are provisions stating the time limit for the validity of several articles in the Special Autonomy Law to be extended. However, this framework itself did not provide for the significant changes needed to strengthen the authority of the MRP, which was also one of the main frameworks recommended by the Governor of Papua, along with recommendations for resolving human rights issues in Papua. The changes to the Special Autonomy Law tended to focus only on the government bureaucracy and regional institutions.

Many parties have questioned the purpose of the changes in the Special Autonomy Law because the community had high expectations for improvements in all sectors in Papua. Problems in Papua do not only consist of problems with local government bureaucracy, but also involve how to resolve conflicts in Papua. The Governor of Papua, Lukas Enembe, said that the changes to the Special Autonomy Law were not in

line with the expectations and needs of the regional government and the Papuan people (Papua 2021). The chairman of the MRP, Timotius Murib, also said the same thing about the changes to the Special Autonomy Law, that it was not in line with the wishes of the Papuan people ([Nasional Tempo 2021](#)). In an experiment conducted on potential conflicts in Indonesia, it was concluded that inter-group reconciliation can effectively be carried out with a strong collective emotional approach ([Mashuri & Leeuwen 2020](#)). This means that if the Indonesian government is serious about resolving the Papuan conflict, then this method could be used with a brotherly approach, because the character of the Papuan people values a collective, participatory approach ([Lumenta 2021](#)).

The implementation of special autonomy for Papua as a form of implementing the concept of asymmetric decentralization has the aim of overcoming the separatist conflict. The Indonesian government was quite successful in resolving the conflict in Aceh, because it involved separatist elements in designing the agreement, but negotiations in Papua were limited ([Lele 2021](#)). Therefore, the Papuan Church Council (WPCC) has strongly supported negotiations between the Indonesian government and the United Liberation Movement for West Papua (ULMWP) to find a peaceful solution in Papua ([Jubi 2020](#)).

The problems that occurred in Papua might also be overcome if the MRP were to be given wider authority in the formation of Special Regional Regulations (Perdasus) and Provincial Regulations (Perdasi). Perdasus and Perdasi have a strategic position to form regulations that can benefit the interests of the Papuan people, because Perdasus and Perdasi are implementing regulations for the Special Autonomy Law and are different from other regional regulations in Indonesia. These regulations can be formed by accommodating the interests of the Papuan people ([Saiba 2019](#)). The position of the MRP reflects the territory of Papua as a country, or at least as a state in the federal government system ([Ronsumbre, Deliarnoor & Mulyawan 2020](#)). However, in the amendment to the Special Autonomy Law, the authority of the MRP was not considered. As a consequence, the MRP has become merely a cultural institution representative of the Papuan people, with limited authority. This means that the solutions and aspirations of the Papuan people represented by the MRP are also limited in the governance and legal framework.

## Perdasus and Perdasi

To implement regional government with the authority vested in special autonomy, the Province of Papua (and West Papua) is given the authority to draw up Special Regional Regulations (Perdasus) and Provincial Regulations (Perdasi). Basically, Perdasi is similar to a number of Regional Regulations (Perda) in other regions in Indonesia. However, the Perdasus is somewhat different because the preparation of the Perdasus must go through the stages of consideration and approval by the MRP. In other words, it must take into account the interests of indigenous Papuans. Perdasus is one of the Regional Regulations of the Papua Province which was formed in the context of implementing the Special Autonomy Law ([Ariyanto 2021](#)). Therefore, the Perdasus has a special position because it is a special regulation used in implementing the Special Autonomy Law; thus, it is certain that the provisions of the Special Autonomy Law would not be implemented if the Special Autonomy Law did not exist.

Both Perdasus and Perdasi are drawn up at the provincial government level by the Governor and the DPRD, but the formation of a Perdasi does not require the consideration and approval of the MRP. At least, there are 14 provisions in the special autonomy law which provide delegation to the Perdasus to regulate a number of matters in the context of implementing the Special Autonomy Law ([Rakia 2021](#)). Various aspects identified in the special autonomy law that must be further regulated in the Perdasus are:

- a. Regional symbols, regional flags, and Papuan regional anthems;
- b. Special authority arrangements for the province of Papua (and West Papua);
- c. Municipal and district authorities in Papua (and West Papua);

- d. Defense spatial policy;
- e. Election of governor and deputy governor;
- f. MRP membership number;
- g. Implementation of MRP tasks;
- h. Institutional rights and membership of the MRP;
- i. MRP obligations;
- j. Special Allocation Fund;
- k. An economy that utilizes natural resources, community rights, guarantees legal certainty for entrepreneurs, environmental conservation, and sustainable development;
- l. Special attention and handling for the development of isolated, remote, and neglected tribes in Papua Province;
- m. Legal supervision, political supervision, and social control;
- n. Transitional provisions regarding the authority of governors, regents and mayors.

From the description above, it is clear that the position of the *Perdatus* is very strategic in the implementation of Papua's special autonomy because these provisions contain many of the main substances of the special autonomy law itself. However, in the formation of the *Perdatus*, the role of the MRP has been very small because the MRP's involvement was only limited to 'giving consideration and approval' to the Draft Special Regional Regulation (*Raperdatus*) proposed by the Governor and the DPRP. In other words, the MRP cannot 'veto' if there is a *Raperdatus* that is deemed not to represent the interests of the Papuan people whom the MRP represents. The weak involvement of the MRP in the formation of the *Perdatus* could have an impact on the interests of the Papuan community, for example in economic development for Indigenous Papuans ([Ariyanto 2017](#)), protection of customary land in Papua ([Suharyo 2019](#)), or the formation of a local political party in Papua ([Wessyau & Waas 2018](#)), as a form of implementation of democracy in Papua.

The formation of the *Perdatus* is considered slow enough to implement a number of provisions in the special autonomy law ([Muryantini 2018](#)), which is also influenced by the performance of local government ([Ardy 2021](#)). There is an opinion that the MRP's position is quite strong in the preparation of the *Perdatus* because the *Perdatus* cannot be promulgated if the MRP does not approve the *Raperdatus* ([Bauw 2019](#)). However, this view should be corrected because in Article 20 paragraph (1) point c, it is stated that the MRP only gives consideration and approval to the *Raperdatus*. In full, Article 20 paragraph (1) point c states that, 'to give consideration and approval to the Draft *Perdatus* submitted by the DPRP together with the Governor'. From the provisions of Article 20 paragraph (1) point c, there is no phrase that says that the MRP can 'veto' the *Raperdatus*.

In addition, sometimes in the process of forming a *Perdatus*, the DPRP and the Governor often do not follow nor consistently implement the provisions for the formation of a *Perdatus* ([Indey 2017](#)). The MRP's authority in giving consideration and approval to the *Raperdatus* is not strong compared to that of the Governor and the DPRP, as noted above. The MRP's authority could be said to be strong if the MRP were to be given the authority to stipulate a *Raperdatus* into a *Perdatus* equivalent to that of the Governor and the DPRP.

## Relations between the Government of Indonesia and Papua under the Last 20 Years

The Draft Law on Special Autonomy for Papua was drafted during the time President Abdurrahman Wahid served as the third President of the Republic of Indonesia, changing the name of the province from Irian Jaya to Papua ([Lefaan, Nugroho & Mudiono 2012](#)). Furthermore, the Papua Special Autonomy Law

was first officially promulgated on November 21, 2001, by the Indonesian government when President Megawati Soekarno Putri served as the fourth president. However, at the end of Megawati's term as President, the implementation of Papua's special autonomy was still problematic, because at that time the MRP's performance had not been maximized and this had an impact on the slow formation of Perdasus and Perdasi, so that the implementation of Papua's special autonomy was considered not optimal ([Rohim 2014](#); [Muryantini 2018](#)).

Dialogue between the government of Indonesia and Papua during the tenure of President Susilo Bambang Yudhoyono and President Joko Widodo was carried out with a non-military approach ([Numbery 2021](#)), but there has been a misconception in the dialogue process. To this day, a number of conflicts in Papua have not been handled properly, so the negotiation process for the Papuan conflict involves internal actors (central/regional government, KKB/OPM, tribal/religious leaders and civil society) and external actors (freeport company) with the main demand being for Papuan independence ([Kaisupy & Maing 2021](#)).

The conflict in Papua has actually not only occurred since 2002 after the enactment of the Special Autonomy Law, but has been on-going since 1963. Among the various conflicts that have occurred in Papua, the issue of human rights and traumatic interactions with the Indonesian military were most expected to be resolved ([Tebay 2016](#)), thus triggering the movement of the "Persatuan Gerakan Pembebasan Papua Barat" (United Liberation Movement for West Papua-ULMWP) or Free Papua Movement (Organisasi Papua Merdeka-OPM) groups. An analysis states that the Indonesian government's militaristic approach based on implementing a counter-insurgency (COIN) strategy has failed and has created new conflict dynamics ([Ramdhan 2021](#)). Therefore, many people suggest that conflict resolution in Papua must be carried out in accordance with the wishes of the Papuan people themselves ([Bhakti & Pigay 2016](#)), because they must pay attention to historical aspects, regional needs, and the latest political situation in Papua ([Suparno 2018](#)).

In the momentum of changes to the Special Autonomy Law, the Governor of Papua has proposed several main frameworks that should be considered by the Indonesian government in making changes to the Special Autonomy Law. As noted above, these included issues of authority, institutions, finance, development policies, politics and law, and the settlement of human rights in Papua. However, it turns out that the changes to the Special Autonomy Law do not take all these needs into account so that the changes to the Special Autonomy Law tend not to be accepted well by the Papuan people. Changes to the Special Autonomy Law are seen as reflecting the wishes of the Indonesian government, not the wishes of the Papuan people. This can weaken the Papuan people's trust in the Indonesian government, because the basic aspirations of the Papuan people are not fully accommodated to resolve conflicts and the needs of the Papuan people. Moreover, in the amendment of the Special Autonomy Law, there are no significant changes that strengthen the authority of the MRP as a cultural institution for the Papuan people.

## Why Strengthen MRP Legislations?

In Article 1 point (g) of the Special Autonomy Law, it is stated that 'MRP is a cultural representation of indigenous Papuans, who have certain powers in the context of protecting the rights of indigenous Papuans based on respect for customs and culture, empowering women, and strengthening religious harmony'. Within the MRP institution, there are working groups (Kelompok Kerja-Pokja), which consist of a customary working group (Pokja Adat), a women's working group (Pokja Perempuan), and a religious working group (Pokja Agama). The three working groups seem to have been formed based on the provisions of Article 1 point (g) of the Special Autonomy Law, namely the phrase 'respect for customs and culture, empowering women, and strengthening religious harmony'.

Why should MRP institutions be strengthened? There are several reasons. First, the MRP is an institution with great significance in the context of implementing Papua's special autonomy, but with limited

authority. The number of working groups (Pokja) is minimal and the formation of working groups is limited to those areas singled out in the Special Autonomy Law for special attention. Each working group formed under the MRP institution has faced a number of problems because regulations to maximize the authority of each working group are lacking.

One of the problems in the case of the Pokja adat, according to its chairman, Demas Tokoro, is that there was concern about the declining population of Papua in terms of the development of the Papuan community ([Melmambessy & Achmady 2020](#)). From the Pokja Perempuan (women's working group), already several years ago, in the Indonesian government's efforts to implement Gender Responsive Planning and Budgeting (PPRG), which is a strategy taken by the government to support efforts to accelerate gender mainstreaming in development, it was still necessary to transform the mindset so that the public, especially public officials, understood the concept of gender properly and correctly, so that PPRG could be applied properly ([Susiana 2015](#)). Meanwhile, from the religious working group, identity politics has gained prominence after the stipulation of the city of Manokwari as the City of the Bible ([Saputra 2017](#)); the population of Manokwari is predominantly Christian, but as in other places where bylaws based on religion have been implemented, minorities are marginalised or discriminated against. These problems cannot be directly addressed by the MRP due to the limited authority of the MRP institution itself.

Second, the number of pokja within the MRP institution is very limited in number, although there are quite a number of important matters regulated in the Special Autonomy Law. Problems in Papua arise not only from issues of custom, women, and religion, but also issues of human development, human rights, settlement of human rights cases, the economy, local institutional authority, international cooperation, defense and security, or local politics. Attention to these problems requires a larger number of pokja than currently exist. The formation of new pokja in the context of implementing the Special Autonomy Law is very necessary because of the wide range of problems in Papua that must be resolved institutionally. This would revive the dynamics of democracy in Papua and would not conflict with intention or provisions of the special autonomy law, because Article 1 point g already gives the MRP a number of powers with the phrase '*...has certain authority*', which means broader authority over customary matters, women and religion.

Third, as a cultural institution that represents the interests of the Papuan people, the MRP requires a number of regulations to carry out its authority in the field of protecting the rights of the Papuan people. However, the MRP is not given broad powers in terms of legislation, as already explained. Juridically, the MRP can only establish non-public internal regulations. A solution would be to give the MRP the same authority as the Governor and the DPRD, including in the case of submitting a Raperdasus, as well as regarding its stipulation and promulgation.

Fourth, it is necessary to clarify the legal position of the MRP institution, namely whether the MRP is only a cultural institution, or a legislative institution at the level of the DPRD. The problem of the weakness of the MRP in legislation is also influenced by the unclear status of this institution, because there is no clear legislative authority. In China, under Chinese law, the autonomous region of the People's Republic of China is granted more flexible legislative powers, as a means to achieve effective autonomous governance, including in terms of protecting minority rights ([Feng 2017](#)). This means that legislative institutions in the regions that have special autonomy authority have flexibility in forming regulations according to their needs. However, in the case of the MRP institution, the unclear status of this institution, whether it is a cultural institution or a regional legislative body, also results in the weakness of the MRP's legislative function.

Fifth, the involvement of MRP members in resolving cases of human rights violations in Papua is essential. The Special Autonomy Law explicitly orders the establishment of the Fact and Reconciliation Commission (Komisi Kebenaran dan Rekonsiliasi-KKR). In Article 46 paragraph (2) of the Special Autonomy Law, this commission is tasked with clarifying the history of Papua in order to strengthen the unity and integrity of the nation in the Unitary State of the Republic of Indonesia, as well as to formulate

and determine reconciliation steps. However, until now the KKR Commission in Papua has not been implemented (Dewi 2021). In a number of statements, the West Papua Church Council (WPCC) has encouraged the Indonesian government to coordinate with the MRP in establishing the KKR Commission. This is appropriate because the MRP is an institution that represents the Papuan people, so that it could play an important role in meeting the aspirations of the Papuan people, especially with regard to cases of past human rights violations in Papua.

## Conclusion

Although there are innovations in the changes to the Special Autonomy Law of Papua, it seems that the modifiers of the Special Autonomy Law did not consider the importance of strengthening the legislative function of the MRP institution. This may result in weakening the Papuan people's trust in the central government, because the MRP is well trusted by the Papuan people as an institution that can represent their aspirations. Amendments to the Special Autonomy Law needed to consider extending the authority of the MRP by strengthening the legislative function for the *Perdatus*, so that the MRP's contribution to the formation of Papuan regional government policies could be implemented according to the spirit of the Papuan people represented by the MRP. Already, the Papuan people have expressed their concerns with the amendments to the Special Autonomy Law, which have been passed by the central government of Indonesia. One way that this situation could be remedied is for the President to issue a *Perpu* (government regulation in lieu of law) to review the strategic position of the MRP in the context of developing Papua province that is more in line with the mandate of the Special Autonomy Law.

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