



The Papuan People's Council and the Governor's Legislative Authority: A Study on the Harmonization of Special Regional Regulation Formulation

Handika Dwi Ardiansyah Pelu¹, Yosman Leonard Silubun^{2*}, Yuldiana Zesa Azis³, Marlyn Jane Alputila⁴

^{1,2,3,4} Faculty of Law, Musamus University, Merauke, South Papua, Indonesian

*Correspondence: yosman@unmus.ac.id

ARTICLE HISTORY

Received: 26.07.2025

Accepted: 05.12.2025

Published: 29.12.2025

ARTICLE LICENSE

Copyright © 2025 The

Author(s): This is an

open-access article

distributed under the

terms of the Creative

Commons Attribution

ShareAlike 4.0

International (CC BY-SA

4.0)

ABSTRACT

The unique design of Indonesia's Special Autonomy Law grants the Papuan People's Council the mandatory authority to approve Special Regional Regulations relating to the fundamental rights of the Indigenous Papuan People. This mechanism introduces a crucial dynamic to regional law-making, often placing the MRP's cultural authority in tension with the Governor's executive legislative power. The introduction highlights this tension, identifying the lack of a clear legal framework for managing the interplay between the MRP's cultural veto and the Governor's administrative requirements. The objective of this study is to juridically analyze the dual legislative powers and to formulate a comprehensive harmonization model that ensures Perdasus upholds OAP rights effectively. The methodology employed is normative legal research (doctrinal research), using the statute approach and conceptual approach to analyze primary legal materials, including the Special Autonomy Law and associated regulations, specifically focusing on the principles of asymmetric decentralization and institutional checks and balances. The conclusion affirms that the legislative process operates under an "asymmetric balance of power," where the MRP's refusal of approval constitutes a procedural flaw leading to the Perdasus's invalidity. A significant normative gap exists concerning dispute resolution mechanisms. To rectify this, the study proposes a Procedural and Substantive Harmonization Model requiring mandatory Cultural Impact Assessments and clear timelines. The novelty of this research lies in its proposed Integrated Dual-Approval Harmonization Model, which moves beyond traditional administrative procedures. Unlike existing frameworks that rely on informal coordination, this model introduces a Binding Cultural Impact Assessment (CIA) and a Joint-Institutional Mediation Phase led by a specialized legal tribunal. This ensures that the distinction between political approval (Governor-DPRP) and cultural approval (MRP) is procedurally codified, eliminating the "normative vacuum" during legislative deadlocks. By codifying these specific harmonization pathways, the proposed model provides legal certainty and reinforces the protective function of Special Autonomy for the OAP.

Keywords : Special Autonomy, Papuan People's Council, Governor's Legislative Authority, Special Regional Regulations, Asymmetric Decentralization, Cultural Veto, Indigenous Papuan People

1. Introduction

The enactment of Law Number 21 of 2001 concerning Special Autonomy for Papua Province (Special Autonomy Law) was a strategic policy response by the Central Government aimed at mitigating conflict, accelerating development, and accommodating the demands for the fundamental rights of the Indigenous Papuan People (OAP). This policy places Papua in a position of asymmetric decentralization, distinguishing it from other Indonesian provinces, where regional authority is significantly expanded across various sectors, including legislation (Asshiddiqie, 2005). After two decades of implementation, Papua's Special Autonomy was deemed to have not fully achieved its main objectives, particularly regarding the protection and empowerment of the OAP. This prompted a revision through Law Number 2 of 2021 (Law 2/2021), focusing on strengthening institutions, improving the governance of Special Autonomy funds, and reiterating the role of cultural institutions. This amendment demonstrates a commitment to refining the Special Autonomy mechanism to better serve the interests of the OAP.

In the framework of Special Autonomy, the protection of the fundamental rights of OAP is the paramount objective that justifies the existence of Perdasus and the MRP's oversight. Based on Law No. 21 of 2001 and its subsequent amendments, these fundamental rights are systematically categorized into several key pillars:

- **Political Rights:** Including the right to prioritize OAP in executive and legislative positions, such as the requirement for the Governor and Vice Governor to be OAP, as well as the allocation of specific seats in regional parliaments (DPRP/DPRK) through an appointment mechanism for representatives of indigenous groups.
- **Customary and Land Rights (Ulayat Right):** The legal recognition and protection of indigenous communal land rights, ensuring that natural resource management within customary territories must involve the consultation and consent of the relevant indigenous communities.
- **Economic Rights:** The right to affirmative action in economic opportunities, including the mandatory allocation of a percentage of the Special Autonomy Fund (Otsus Fund) for the empowerment of local indigenous entrepreneurs and communities.
- **Social and Cultural Rights:** The right to the preservation of indigenous languages, traditions, and cultural identity, alongside the prioritized access to high-quality Education and Health services, which are funded by at least 30% and 15% of the Otsus Fund, respectively.
- **Legal Protection:** The right to have customary law courts recognized for resolving internal community disputes, provided they do not conflict with national criminal law and human rights principles.

These rights are not merely symbolic but are legally enforceable mandates. When a draft Perdasus touches upon any of these specific sectors—such as land use for investment or educational curricula - the law mandates that the MRP, as the guardian of these rights, must provide its formal approval. This ensures that the Governor's legislative authority does not inadvertently diminish the protective standards set by the Special Autonomy regime for the OAP.

In the context of Special Autonomy, regional legal products in Papua do not only consist of general Regional Regulations (Perda), but also Special Regional Regulations (Perdasus) and Special Governor Regulations (Pergubsus). Perdasus is a legislative instrument whose subject matter constitutes the implementation of specific rights guaranteed by the Special Autonomy Law, particularly those concerning customary rights, culture, and the protection of the OAP. Therefore, the integrity of the Perdasus formulation process is vital (Law No. 21 of 2001, Article 1 point 17). One of the main unique features of Special Autonomy is the establishment of the Papuan People's Council (MRP). The MRP is a cultural representative body for the OAP that holds strategic duties and authorities, especially in providing protection for the rights of the OAP, upholding religious values, and maintaining inter-tribal harmony in Papua. The MRP acts as a cultural filter for policies made in Papua (Law No. 21 of 2001, Article 19).

Explicitly, the Special Autonomy Law grants the MRP a crucial role in the legislative process, which is to provide approval for draft Perdasus submitted by the Papuan Regional House of Representatives (DPRP) and the Governor of Papua, particularly those directly related to the fundamental rights of the OAP. This authority indicates that the MRP is not merely a ceremonial body but possesses a cultural veto power in the regional regulation formulation process (R.S. Rakia, 2021). On the other hand, the Governor of Papua (as the Regional Head and the representative of the Central Government) holds executive authority and simultaneously possesses legislative authority, namely initiating draft Perdasus/Special Governor Regulations and enacting Perdasus that have been jointly approved with the DPRP. This authority is an inherent part of the regional government system in Indonesia, yet in Papua, it must interact with the authority of the MRP. (Lesnusa et al., 2014)

The existence of two interacting power-holders in the legislative process—a political/executive institution (Governor/DPRP) and a cultural/customary institution (MRP)—inherently creates the potential for friction or institutional disharmony. The fine line between the MRP's authority of "approval" and the Governor's authority of "enactment" often becomes a source of political and legal contention. The revision through Law 2/2021 has both strengthened and clarified several aspects of the MRP's authority, including the mechanism for overseeing discriminatory policies. However, this clarification does not necessarily eliminate operational ambiguity in legislative collaboration. An in-depth study is necessary to see how these changes affect the dynamics of Perdasus legislation in the field (Law No. 2 of 2021).

In practice, issues often arise regarding the clarity of the procedure for when exactly the MRP must grant approval, the mechanism for refusal, and the legal consequences if a Perdasus is enacted without the MRP's approval or if the MRP refuses to approve the draft submitted by the Governor/DPRP. This lack of procedural clarity could threaten the legality of the Perdasus itself (Fauzi, 2018). If a Perdasus, whose substance affects OAP rights,

is enacted based solely on the approval of the DPRD and the Governor, while neglecting or overruling the MRP's refusal, that Perdasus is potentially legally flawed both procedurally and substantively. This defect could trigger lawsuits and lead to legal uncertainty in the region.

The required harmonization is not merely procedural; it is also substantive harmonization, ensuring that every Perdasus formulated genuinely reflects the cultural values of the OAP and the goals of Special Autonomy. This harmonization must guarantee that the rights of the OAP are not eroded by purely political or bureaucratic interests (Abrar, 2016). This study is important in the dimension of constitutional law, as it involves the interaction between a regional institution with a unique nature (MRP) and an executive institution (Governor) within the framework of a unitary state. This serves as a test for the unconventional model of checks and balances in the Indonesian regional government system (Asshiddiqie, 2005).

Therefore, a comprehensive study is required to formulate an ideal harmonization model between the role of the MRP as the 'cultural guardian' and the Governor as the 'government implementer and legislative executive'. This model must be capable of ensuring governmental effectiveness without sacrificing the protection of OAP rights.

Although numerous studies exist on Special Autonomy and the MRP, few focus systematically and deeply on the point of intersection of legislative authority between the MRP and the Governor, especially post-Law 2/2021. This literature gap underscores the importance of this research to fill the void in the legal analysis of this issue. Based on the background above, this research will thoroughly examine how the legislative authorities of the MRP and the Governor are harmonized in the formulation of Perdasus to create a regional legal product that is legitimate, effective, and constitutional, thereby ensuring that the core objectives of Special Autonomy can be achieved.

2. Method Research

This study employs a normative legal research methodology (also known as doctrinal research), focusing on legal norms, principles, and doctrines related to the governance of Special Autonomy in Papua. The research utilizes several core approaches: the statute approach to analyze the hierarchy and substance of relevant legislation, including the amended Law No. 21 of 2001 (as revised by Law No. 2 of 2021) concerning Special Autonomy; the conceptual approach to define the legislative authority of the Governor and the 'cultural veto' function of the Majelis Rakyat Papua (MRP); and, where applicable, the case approach to examine judicial decisions (if any) related to the legality of Perdasus enacted without MRP approval. Primary legal materials, such as the relevant constitutional articles, the Special Autonomy Law, and relevant governmental regulations (PP), are analyzed alongside secondary materials—including academic journals, scholarly books, and expert opinions—to construct a comprehensive legal argument and formulate a model of institutional harmonization. (Soekanto & Mamudji, 2018)

3. Results and Discussion

3.1 The Position and Authority of the MRP in Perdasus Legislation

The primary legal framework governing the Majelis Rakyat Papua (MRP) is established in Law Number 21 of 2001 (as amended by Law No. 2 of 2021). Key provisions, particularly Article 20 and Article 77, explicitly mandate the MRP's involvement in the legislative process for Special Regional Regulations (Perdasus). Specifically, Perdasus concerning the fundamental rights of the Indigenous Papuan People (OAP), customary rights, and the protection of cultural values must obtain prior approval from the MRP. This legal requirement elevates the MRP's participation beyond mere consultation.

This statutory mandate transforms the MRP from a purely cultural representative body into an institution with formal legislative control—a distinct feature of Papua's asymmetric decentralization (Asshiddiqie, 2005)). The term "persetujuan" (approval) in the context of law-making is a powerful legal instrument, granting the MRP a de facto cultural veto over specific categories of regional legislation. This mechanism is designed to be the ultimate safeguard ensuring that laws enacted locally genuinely serve the interests and protect the rights of the OAP, thereby preserving the core spirit of the Special Autonomy Law.

The legal foundation for this authority lies in the recognition of the OAP's right to self-determination within the unitary state framework, achieved through the devolution of authority and the establishment of unique local institutions. (Lesnusa et al., 2014) The legal requirement for MRP approval acts as a mandatory procedural prerequisite for the validity of the Perdasus. Any legislative product failing this prerequisite is subject to legal challenge, highlighting the centrality of the MRP's function in upholding local constitutionalism.

The amendments introduced by Law No. 2 of 2021 have largely maintained this vital approval mechanism, recognizing its critical function in securing the political legitimacy and cultural relevance of *Perdasus*. While the amendments aimed to clarify institutional roles and strengthen accountability, the core principle remains: the power to legislate on certain matters is shared between the executive/political body (Governor/DPRP) and the cultural representative body (MRP), distinguishing Papua's system from standard regional governance in Indonesia.

In the standard Indonesian regional legislative framework, the Regional House of Representatives (DPRD), known as the DPRP in Papua, holds the primary authority, alongside the Governor, to form and enact Regional Regulations (*Perda*). The DPRP represents the political and democratic legitimacy of the region. Conversely, the MRP represents cultural and customary legitimacy and only possesses legislative authority over a specific subset of regulations (*Perdasus* related to OAP rights).

The DPRP and the MRP perform distinct yet overlapping functions. The DPRP, consistent with Article 18 of the UUD 1945, functions as the legislative body through which the people's political will is channelled. (Enggarani et al., 2024) It has the general authority to discuss and approve all Regional Regulations, including general *Perdasus*. The MRP, however, acts as a specialized oversight mechanism focusing exclusively on protecting OAP rights. (Effendy, 2023)

This dual structure creates a unique horizontal check and balance system in Papua. While the DPRP provides the necessary political consensus for a *Perdasus*, the MRP provides the necessary cultural clearance. Unlike the DPRP, which can initiate and approve legislation jointly with the Governor, the MRP's role is strictly that of approver or reviewer for specific matters. This structural difference emphasizes that the MRP is not a second legislative chamber but rather a gatekeeper for cultural and customary integrity.

The key difference lies in the scope of authority. The DPRP's scope is general and political; the MRP's scope is narrow, specialized, and protective. The legislative authority of the Governor, therefore, requires interaction with the DPRP for political approval on all regulations and with the MRP for cultural approval on specific regulations. This complex interplay necessitates a clearly defined procedural harmonization to prevent paralysis or conflict between the political-democratic will and the cultural-customary will of the region.

The Special Autonomy Law does not explicitly define the precise legal fate of a draft *Perdasus* that has been rejected or withheld approval by the MRP. However, legal scholarship and the principle of statutory hierarchy suggest that the MRP's disapproval is not merely advisory but has the effect of halting the legislative process. The final enactment of a *Perdasus* concerning OAP rights is contingent upon the formal approval document from the MRP.

The direct implication of the MRP withholding approval is the legal invalidity of the draft *Perdasus*. Since the statute requires "persetujuan," the absence of this approval means a mandatory procedural element has not been fulfilled. According to administrative law principles, failure to meet a mandatory legal requirement renders the subsequent executive action (the Governor's enactment) legally flawed and potentially null and void. (Sesung, 2013)

If the Governor, despite the MRP's explicit disapproval or silence, proceeds to enact the draft *Perdasus*, the resulting regulation is highly susceptible to judicial review (e.g., by the Supreme Court or through regional administrative courts). Such a *Perdasus* would be deemed inconsistent with the higher law (UU Otsus) and would violate the special procedural rules for its formation. This situation creates significant legal uncertainty and undermines the very constitutional guarantees afforded to the OAP.

Furthermore, the refusal of approval by the MRP carries political and social consequences. It signifies that the proposed regulation lacks cultural legitimacy among the OAP, potentially leading to social unrest or non-compliance, thereby frustrating the intended objectives of the *Perdasus*. Thus, the legal implication is not only the invalidation of the norm but also the creation of a crisis of confidence in the regional government's commitment to the principles of Special Autonomy, requiring the Governor and DPRP to re-draft the regulation to meet the MRP's standards

3.2 Implementation of the Governor's Legislative Authority and *Perdasus* Formulation

The Governor of Papua, as the head of the executive branch and simultaneously the representative of the Central Government, possesses core legislative authority. This authority is primarily rooted in Law Number 23 of 2014 on Regional Government and is specified for the Special Autonomy context by Law Number 21 of 2001 (UU Otsus). The Governor holds the right of initiation for draft *Perdasus* (jointly with the DPRP) and the power of enactment (signing into law) after securing approval from the DPRP and, critically, the required approval from the Majelis Rakyat Papua (MRP) for specific matters.

The Governor's role transcends simple executive administration; it involves active participation in law-making, reflecting the traditional executive-legislative partnership common in Indonesia's decentralization model (R.S. Rakia, 2021). The authority to initiate legislation is crucial as it allows the executive to translate government programs and policy priorities—including the management of Special Autonomy funds and resource allocation—into binding legal norms. This initiation right ensures that the Governor's long-term vision for Papua is legally entrenched.

During the discussion phase, the Governor, represented by the Provincial Government, is responsible for providing technical data, academic justifications (Academic Draft), and budgetary support to the DPRP. While the DPRP holds the deliberative power, the technical quality and feasibility of the *Perdasus* heavily rely on the executive apparatus. The Governor's ability to effectively manage this phase is key to overcoming potential political obstacles and securing timely approval from the DPRP.

The final power of enactment (signing the *Perdasus* into law) formally concludes the legislative process. However, unlike general Regional Regulations (*Perda*), the Governor's power to enact a *Perdasus* is legally conditional. It is conditioned not only on the political agreement with the DPRP but also on the MRP's cultural clearance for certain subject matters, as discussed previously. Therefore, the Governor's authority here is one of formal validation, strictly bound by procedural prerequisites established in the Special Autonomy regime.

Practical implementation reveals that while numerous *Perdasus* have been enacted smoothly, several high-profile cases have triggered significant institutional polemics, primarily stemming from disagreements between the Governor/DPRP and the MRP. A notable example relates to *Perdasus* governing natural resource management or the specific implementation of OAP land rights, where the MRP asserted its non-negotiable cultural authority, sometimes leading to the delay or ultimate retraction of the draft regulation.

These polemics demonstrate a functional tension inherent in the asymmetric system. The Governor often prioritizes development efficiency, investment attraction, and bureaucratic expediency, while the MRP emphasizes cultural preservation, customary rights, and community consent. When a draft *Perdasus* (e.g., related to mining permits or protected customary areas) conflicts with the MRP's protective mandate, the legislative process effectively grinds to a halt, showcasing the true power of the MRP's cultural veto.

The procedural ambiguity regarding the definition of "*Perdasus* concerning the fundamental rights of OAP" exacerbates these conflicts. The Governor and DPRP might argue for a narrow interpretation to bypass MRP approval, whereas the MRP often adopts a broad interpretation to maximize protection. This interpretive dispute frequently becomes the legal flashpoint in the process, confirming that the harmonization required is not only procedural but fundamentally interpretive and substantive (Silubun et al., 2025).

The examination of these cases highlights the politicization of the legal process. In instances where the Governor pushes for enactment despite procedural shortcomings or MRP reservations, the resulting *Perdasus* often lacks popular acceptance and fails to resolve underlying conflicts. This indicates that successful implementation of the Governor's legislative authority in Papua demands not just formal compliance, but a deep commitment to consensus building and acknowledging the MRP's unique cultural legitimacy as the foundation for durable regional law.

It is imperative to explicitly distinguish between the political approval mechanism, involving the Governor and the DPRP, and the cultural approval mechanism exercised by the MRP. Political approval represents a "horizontal" legislative agreement between the executive and the representative body, focusing on budgetary feasibility, administrative efficiency, and general public policy interests; its legal consequence is the formation of a political consensus necessary for any regional regulation. In contrast, the MRP's cultural approval functions as a "specialized check" with a purely protective nature, focusing exclusively on the preservation of the OAP's fundamental rights. While the absence of political approval prevents a bill from advancing, the absence of cultural approval for a *Perdasus* creates a procedural void that renders the regulation constitutionally infirm under the Special Autonomy framework. Thus, the Governor operates within two distinct legal spheres: a political sphere requiring negotiation with the DPRP, and a cultural sphere requiring subordination to the MRP's veto on specific indigenous subject matters.

Various regional-level regulations, including specific *Perdasus* and accompanying Special Governor Regulations (*Pergubsus*), have been issued to operationalize the Governor's authority. For example, some *Pergubsus* detail the procedures for drafting an Academic Manuscript or establish technical coordination mechanisms. However, the existing regional regulations often fail to provide clear, unambiguous limitations or pathways for resolving legislative deadlocks with the MRP, especially after the amendments in Law No. 2/2021.

Pergubsub plays a vital role in the technical implementation of the Governor's legislative mandate, outlining timelines, required executive departments involved, and internal consultation processes. This shows the Governor's proactive effort to structure the legislative workflow. However, because Pergubsub is an executive product, it cannot legally limit or redefine the statutory powers of the MRP or the DPRD, which are derived directly from the Special Autonomy Law.

Ironically, the proliferation of specific Perdasus and Pergubsub in the absence of clear central government guidance on institutional relations has sometimes complicated rather than clarified the Governor's role. These regulations may attempt to structure the Governor's internal procedures but often remain silent on the inter-institutional dispute resolution mechanism with the MRP, creating a normative vacuum where institutional conflicts must be resolved through political negotiation rather than clear legal rules (Purbacaraka & Soekanto, 1993).

The evaluation concludes that while existing regulations provide the Governor with sufficient procedural means to initiate and prepare legislation, they offer insufficient normative guidance to navigate the complex system of checks and balances imposed by the MRP's cultural authority. A more effective solution requires central government intervention through a detailed Government Regulation (Peraturan Pemerintah) or a comprehensive Perdasus initiated by the Governor and DPRD, specifically dedicated to harmonizing the inter-institutional legislative procedures in the spirit of protecting OAP rights.

3.3 Harmonization of MRP and Governor Legislative Authorities in Perdasus Formulation

Analysis of the Special Autonomy Law reveals a potential for normative conflict or overlap arising from the shared responsibility for Perdasus formation. The conflict centers on the interpretation of which specific draft regulations require MRP approval (cultural check) versus those requiring only DPRD approval (political check) and the Governor's enactment. Furthermore, a significant normative gap exists regarding the prescribed legal procedure and timeline for resolving a legislative deadlock when the MRP explicitly rejects a draft.

The primary source of overlap stems from the vague definition of "Perdasus concerning the fundamental rights of OAP." Both the Governor/DPRD and the MRP possess the authority to interpret this phrase, often leading to divergent conclusions based on political versus cultural priorities. This ambiguity creates a zone of potential institutional turf war, where the executive may attempt to categorize a draft as a general Perdasus to avoid the MRP veto, undermining the protective spirit of the law (Gadjong, 2007).

The most critical normative gap lies in the dispute resolution mechanism. While the law grants the MRP the power to approve, it offers no clear legal recourse, such as mediation, joint consultation requirements, or arbitration by a higher legal body, when approval is denied or withheld indefinitely. This lack of procedural clarity transforms a legal process into a political impasse, resulting in regulatory stagnation and delay in implementing vital Special Autonomy programs designed for the OAP.

The impact of this gap is the creation of a fragile system where the validity of a law depends heavily on political goodwill and consensus, rather than rigid legal procedures. To eliminate this uncertainty, clarification is required at the primary legal level, establishing objective criteria for categorizing Perdasus and creating a binding, time-limited procedure for the MRP's review process, thereby ensuring both legal certainty and institutional accountability.

The unique institutional design in Papua necessitates moving beyond the traditional notion of horizontal power distribution (executive, legislative, judicial). Instead, the system must operate based on a concept of "keseimbangan kekuasaan" (balance of power) that incorporates cultural legitimacy (MRP) alongside democratic legitimacy (DPRD) and executive efficiency (Governor). This distinct "balance of power" is fundamentally an exercise in asymmetric governance. The MRP's power is not derived from democratic elections in the same manner as the DPRD or Governor, but from its constitutional recognition as the embodiment of OAP cultural sovereignty. Therefore, the balance is achieved by acknowledging that in certain matters—namely those touching OAP fundamental rights—the cultural check prevails over mere political majority (Asshiddiqie, 2005).

Conceptually, the Governor represents the principle of effectiveness and administration, tasked with translating policies into actionable regulations and ensuring good governance. The MRP represents the principle of protection and integrity, acting as a mandatory safeguard against policies that may violate customary law or marginalize the OAP. A successful balance demands that the Governor proactively incorporates MRP perspectives during the initiation phase, viewing the MRP not as an obstacle but as a co-creator of culturally sound legislation.

The ideal balance is achieved when the MRP's authority is understood as a procedural limitation on the Governor's power, rather than a political competition. The Governor retains broad executive and legislative initiation

powers, but these powers are only legitimate when they pass the cultural scrutiny of the MRP. This concept mandates co-operation through legal constraint, ensuring that efficiency is always subservient to the foundational protective goals of Special Autonomy. To overcome existing deadlocks and ambiguities, a dual-layered Harmonization Model—comprising both procedural and substantive elements—is essential. Procedural harmonization addresses how the law is made, while substantive harmonization ensures what the law protects (Gadjong, 2007).

Procedural Harmonization Model. This model requires clear, statutory timelines and defined stages.

1. Mandatory Initial Consultation: The Governor must formally consult the MRP prior to the draft submission to the DPRP for an initial cultural assessment.
2. Binding Timeline for Approval: The MRP must be given a fixed, non-extendable period (e.g., 30 working days) to provide approval or a detailed written rejection.
3. Judicial Mediation: If the MRP rejects the draft, a mandatory, final mediation stage involving an independent body (e.g., a panel led by the Supreme Court/Constitutional Court representative) should be established to offer a definitive interpretation on whether the *Perdatus* genuinely affects OAP fundamental rights. This ensures the deadlock is resolved legally, not politically.

Substantive Harmonization Model. This model focuses on the content of the *Perdatus*. Every *Perdatus* affecting OAP rights must pass a "Cultural Impact Assessment (CIA)".

1. Cultural Impact Assessment: The Academic Draft prepared by the Governor's office must include a mandatory CIA, demonstrating how the proposed regulation aligns with customary law and enhances OAP empowerment metrics (e.g., education, health, economy).
2. Non-Regression Principle: The *Perdatus* must adhere to the Principle of Non-Regression on OAP rights, ensuring that the new regulation does not diminish any existing rights or protections guaranteed by previous laws or customary norms.

Implementation of this comprehensive model requires the Governor to lead the creation of a new Special Governor Regulation (*Pergubsus*) or jointly with the DPRP, a Procedural *Perdatus*, that legally embeds these procedural steps and substantive criteria. By doing so, the Governor leverages the executive authority to create a legal framework that simultaneously limits arbitrary executive action and protects the MRP's cultural mandate, ultimately ensuring that *Perdatus* serves its primary purpose: the protection and advancement of the Indigenous Papuan People.

4. Conclusion

This study concludes that the implementation of legislative authority in the formation of Special Regional Regulations (*Perdatus*) in Papua exhibits a unique regional constitutional system, characterized by an "asymmetric balance of power" where the executive authority of the Governor must mandatorily submit to the cultural approval (cultural veto) of the Papuan People's Council (MRP) on issues concerning the fundamental rights of the Indigenous Papuan People (OAP). Juridical analysis confirms that the MRP's refusal of approval procedurally implies a legal flaw and invalidity of the *Perdatus*, highlighting a significant normative gap regarding the mechanism for resolving legislative disputes between the two institutions. To achieve effective harmonization and ensure *Perdatus* is fully oriented towards OAP protection, the adoption of a binding Procedural and Substantive Harmonization Model is necessary, encompassing mandatory Cultural Impact Assessments (CIA) and the establishment of clear, fixed timelines. Based on these results and discussion, subsequent research should be directed towards prospect development of implementing regulations capable of solving procedural deadlocks, followed by prospect application studies concerning the impact of harmonized *Perdatus* on enhancing OAP welfare and protection.

Bibliography

- Asshiddiqie, J. (2005). *Hukum Tata Negara dan Pilar-Pilar Demokrasi*. Serpihan Pemikiran Hukum, Media dan HAM. Konstitusi Press.
- Effendy, R. G. (2023). Analisis Otonomi Khusus Papua Dalam Perspektif Orang Asli Papua. *Binamulia Hukum*, 12(2), 309–322. <https://doi.org/10.37893/jbh.v12i2.436>
- Enggarani, N. S., Spaltan, B. G., Setiawati, D., Zuhdi, S., Farid, A. M., & Budiono, A. (2024). Regional Heads' Legitimacy in Implementing the Regional Government Based on Democratic Principles. *Jurnal Hukum Volkgeist*, 9(1), 38–48. <https://doi.org/10.35326/volkgeist.v9i1.7086>

- Gadjong, A. Andi. (2007). *Pemerintahan daerah : kajian politik dan hukum*. Ghalia Indonesia.
- Lesnusa, A. M. W., Diamantina, A., & Pinilih, S. A. G. (2014). TUGAS DAN FUNGSI LEMBAGA MAJELIS RAKYAT PAPUA BARAT DALAM UPAYA PERLINDUNGAN HAK-HAK DASAR ORANG ASLI PAPUA DI MANOKWARI. *Diponegoro Law Jurnal*, 13(1).
- Purbacaraka, P., & Soekanto, S. (1993). *Sendi - Sendi Ilmu Hukum dan Tata Hukum (Cet Ke-6)*. Citra Aditya Bakti.
- R.S. Rakia, A. S. (2021). Kewenangan Khusus Majelis Rakyat Papua Terhadap Pembentukan Perdatus. *JUSTISI*, 7(1), 14–25. <https://doi.org/10.33506/js.v7i1.1168>
- Sesung, Rusdianto. (2013). *Hukum otonomi daerah : negara kesatuan, daerah istimewa, dan daerah otonomi khusus*. Refika Aditama.
- Silubun, Y. L., Imanuel, V., & Silubun, A. J. (2025). DISKURSUS HUKUM DAN POLITIK ATAS IDENTITAS ORANG ASLI PAPUA DALAM PEMILIHAN KEPALA DAERAH DI BAWAH REZIM OTONOMI KHUSUS. , *jurnal.asthagrafika.com*, <<https://jurnal.asthagrafika.com/index.php/alj/article/view/104>>. *Animha Law Journal*, 2(1), 10.
- Slamet, A., Salam, S., Hezradian, R. F., Hezraria, R. F., Iskandar Salju, & Al Faruq, M. R. (2025). Penguatan Ekowisata Berbasis Kearifan Lokal untuk Pemberdayaan Ekonomi Desa Bahari III, Kabupaten Buton Selatan. *Room of Civil Society Development*, 4(2), 392–400. <https://doi.org/10.59110/rcsd.609>
- Soekanto, S., & Mamudji, S. (2018). *Penelitian Hukum Hukum Normatif Suatu Tinjauan Singkat (18th ed.)*. Grafindo Persada.
- Wijayanti, S., Sari, Z. N., Salam, S., & Firdaus, A. A. (2024). Norm Clash in Lex Superior Derogate Legi Inferiori Principle's Implementation on Circular Letters and Laws. *Reformasi Hukum*, 28(3), 234-250 <https://doi.org/10.46257/jrh.v28i3.732>.