

Legal Review of Local Government Institutions in Papua under Government Regulation No. 106/2021

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Informasi Artikel	Abstract
E-ISSN : 3026-6874 Vol: 3 No: 9 September 2025 Page : 82-95	<i>The Province of Papua holds a special constitutional status under Law No. 2 of 2021, implemented through Government Regulation (PP) No. 106 of 2021, which assigns 23 governmental functions to regional authorities. The regulation embodies asymmetric decentralization intended to protect the rights of Indigenous Papuans (OAP) and address local needs. However, it raises legal concerns regarding ambiguous authority distribution between central, provincial, and municipal levels, as well as the unclear operational role of the Papuan People's Assembly (MRP). The main research problem is whether PP No. 106/2021 provides a coherent and constitutionally consistent governance framework. This study applies doctrinal legal research using normative-analytical methods, including statutory interpretation, constitutional tests, and comparative perspectives. The findings indicate weak accountability mechanisms in managing Special Autonomy Funds, limited integration of customary law, and institutional fragility in newly established bodies such as BP-DOP and UPAP. The study concludes that PP No. 106/2021 does not fully align with the constitutional principles of legal certainty and decentralization. It recommends substantial revisions, strengthening MRP's legal status, formal recognition of customary law through <i>Perdasus</i>, and an institutional blueprint with clear performance indicators to ensure effective, inclusive, and adaptive governance in Papua.</i>
Keywords: Papua, Special Autonomy, Decentralization, Legal Pluralism, Governance Reform.	

Abstrak

Provinsi Papua memiliki status konstitusional khusus berdasarkan Undang-Undang Nomor 2 Tahun 2021, yang dilaksanakan melalui Peraturan Pemerintah (PP) Nomor 106 Tahun 2021, yang menyerahkan 23 fungsi pemerintahan kepada pemerintah daerah. Peraturan tersebut mencerminkan desentralisasi asimetris yang bertujuan melindungi hak-hak masyarakat asli Papua (OAP) dan memenuhi kebutuhan lokal. Namun, peraturan ini menimbulkan kekhawatiran hukum terkait pembagian wewenang yang ambigu antara tingkat pusat, provinsi, dan kota, serta peran operasional yang tidak jelas dari Dewan Rakyat Papua (MRP). Masalah penelitian utama adalah apakah PP No. 106/2021 menyediakan kerangka tata kelola yang koheren dan konsisten secara konstitusional. Studi ini menerapkan penelitian hukum doktrinal menggunakan metode normatif-analitis, termasuk interpretasi undang-undang, uji konstitusional, dan perspektif komparatif. Temuan menunjukkan mekanisme akuntabilitas yang lemah dalam pengelolaan Dana Otonomi Khusus, integrasi hukum adat yang terbatas, dan kerentanan institusional pada badan-badan baru seperti BP-DOP dan UPAP. Studi ini menyimpulkan bahwa PP No. 106/2021 tidak sepenuhnya selaras dengan prinsip-prinsip konstitusional kepastian hukum dan desentralisasi. Rekomendasinya meliputi revisi substansial, penguatan status hukum MRP, pengakuan formal hukum adat melalui *Perdasus*, dan kerangka institusional dengan indikator kinerja yang jelas untuk memastikan tata kelola yang efektif, inklusif, dan adaptif di Papua.

Kata Kunci : Papua, Otonomi Khusus, Desentralisasi, Pluralisme Hukum, Reformasi Tata Kelola.

INTRODUCTION

The Province of Papua holds a distinctive position within Indonesia's constitutional and administrative structure, particularly in relation to the framework of Special Autonomy. Initially governed by Law No. 21 of 2001 and subsequently amended by Law No. 2 of 2021, this special status reflects the central government's commitment to addressing governance challenges, developmental disparities, and the rights of indigenous communities (Presiden Republik Indonesia, 2001, 2021b). To operationalize this revised legal framework, the government enacted Government Regulation (PP) No. 106 of 2021, which

aims to delineate the division of authority between national and regional governments (Presiden Republik Indonesia, 2021a).

Government public communication plays a pivotal role in this response, as it shapes public understanding, influences societal norms, and informs regulatory frameworks. Communication strategies must not only provide clarity on the regulations in place but also foster engagement between the government and the public to build trust and promote compliance (Sufa et al., 2025). Government Regulation No. 106 of 2021 affirms the allocation of governmental authority under the Special Autonomy framework in Papua. The regulation specifies 23 areas of governance devolved to regional authorities. These include the education sector, encompassing the administration of the Papua Special Autonomy scholarship; the health sector, with a focus on affirmative programs to enhance healthcare services; and the local economic sector, which covers agriculture, fisheries, micro, small, and medium enterprises (MSMEs), and the empowerment of indigenous communities (Presiden Republik Indonesia, 2021a). Additionally, the regulation addresses the preservation of culture, customs, and the environment, along with the development of essential infrastructure such as roads, energy, and housing each supported by Special Autonomy funding.

Conversely, the central government maintains strategic authority over key national domains, including defense, security, monetary policy, and foreign affairs. It also governs the management of specific natural resources, such as oil and gas, through a designated profit-sharing scheme. The central government sets national standards in the education, health, and development sectors. To strengthen their recruitment strategies, universities should focus on combining impactful digital outreach with positive word-of-mouth promotion (Soekiman et al., 2025). In addition to these regulatory functions, the central government supervises, monitors, and evaluates the allocation and use of Special Autonomy Funds.

Regional governments in Papua both at the provincial and district or municipal levels have been granted expanded authority to manage public affairs based on local characteristics and contextual needs. The Provinces of Papua and West Papua, along with newly established autonomous regions, possess discretionary power in policymaking. Meanwhile, provincial governments delegate specific responsibilities to district and municipal administrations, including the provision of basic education, primary healthcare services, and community-based economic empowerment programs.

Regarding fiscal arrangements, the Special Autonomy Fund serves as the primary financial instrument, channeled through an intergovernmental transfer mechanism from the central government to regional authorities. The regulation mandates that these funds prioritize the empowerment of Indigenous Papuans, enhancement of their human resource capacity, and the alleviation of poverty. Institutional development also receives significant attention. Government Regulation No. 106 of 2021 formally acknowledges the role of Indigenous Papuan representative institutions in development planning and oversight, while reinforcing the authority of the Papuan People's Assembly (*Majelis Rakyat Papua/MRP*) as a cultural body tasked with safeguarding the political, economic, social, and cultural rights of Indigenous Papuans.

The primary objective of this regulation is to establish legal certainty concerning the division of authority, promote policy harmonization between central and regional governments, and ensure that the implementation of Special Autonomy proceeds in an effective, accountable, and constitutionally grounded manner. Additionally, it seeks to minimize jurisdictional conflicts and enhance the substance of regional autonomy in Papua. Nevertheless, the normative content and structural framework of Government Regulation No. 106 of 2021 have prompted critical concerns particularly with respect to its alignment with constitutional principles, the clarity of institutional mandates, and the extent to which it safeguards the guarantees embedded within the Special Autonomy framework (Setiyono & S., 2023).

Although PP No. 106/2021 serves as a foundational instrument for shaping the institutional configuration of local governance in Papua, scholarly investigations into its normative and legal validity remain scarce. Prior research has predominantly adopted political or sociological perspectives, focusing on themes such as identity politics, conflict dynamics, and developmental challenges in the region (Turner, 2022). In contrast, studies employing normative approaches grounded in constitutional and administrative law remain significantly underdeveloped. This lack of inquiry has generated a substantial research gap, particularly in examining vertical authority alignment, legal certainty in public

administration, and the regulatory coherence with constitutional mandates (Effendy, 2023; Rakia et al., 2022). This study seeks to address that gap by applying a normative legal approach to critically analyze the regulatory design of PP No. 106/2021 and evaluate its implications for the legitimacy, structure, and operational coherence of local government institutions in Papua.

The enactment of Government Regulation No. 106 of 2021, as the implementing regulation of Law No. 2 of 2021 on the Second Amendment to the Papua Special Autonomy Law, has introduced a renewed governance framework for Papua Province. Despite this development, several legal concerns have emerged regarding the regulation's formulation, interpretation, and application (Presiden Republik Indonesia, 2021a). These concerns primarily relate to ambiguities in the distribution of authority between central and regional governments, inconsistencies within the institutional hierarchy of regional governance structures, and the unclear accountability mechanisms for special regional institutions that were either established or restructured through the regulation.

Moreover, the normative and constitutional foundations of the regulation remain insufficiently articulated. The intersection of national legal norms, regional autonomy provisions, and customary laws gives rise to potential normative conflicts. The absence of a clearly defined normative hierarchy particularly in relation to institutional authority and the decentralization of governmental functions may lead to legal uncertainty, thereby undermining the principle of legal certainty enshrined in Article 28D paragraph (1) of the 1945 Constitution. This inconsistency in legal construction prompts critical examination of whether Government Regulation No. 106 of 2021 truly embodies the principles and objectives of the Special Autonomy Law and aligns with the constitutional mandate for equitable and effective decentralization (Presiden Republik Indonesia, 2021a).

Legal Norm Theory serves as a fundamental framework for comprehending the legal system, as it encompasses the core principles, structural foundations, and societal functions of law. Legal norms, which emerge from the interplay between legal principles and prevailing social values, function as regulatory instruments that delineate acceptable and prohibited conduct. They also serve as normative guidelines for legal actors in understanding their rights and obligations within the legal order. These norms manifest in various forms, including codified statutes, customary rules, and principles derived from jurisprudential doctrines. In addition to formal legal provisions, legal norms incorporate unwritten traditions that significantly influence the interpretation and application of the law. Within the sphere of constitutional law, legal norms may originate from both explicit constitutional texts and implicit normative values that have evolved through historical practice, thereby reflecting the dual function of law in both codifying and shaping societal norms (Taekema, 2018). Moreover, legal norms hold a central role in legal reasoning, where the interrelation between normativity and truth becomes essential. The validity of legal norms is contingent upon their authoritative status and rational coherence, necessitating legal argumentation as a means to critically assess and reinforce their legitimacy (Pulido, 2012). This perspective highlights the imperative that legal norms must possess both legitimate authority and rational justification, grounded in the socio-legal context in which they operate (Rizal et al., 2023).

The Theory of Decentralization examines the allocation of authority and responsibility across different levels within organizations or governmental systems, emphasizing the enhancement of responsiveness, efficiency, and innovation through the delegation of decision-making power to subordinate units. This theoretical framework has been widely applied across multiple domains, including public administration, corporate governance, and community-based management, each illustrating the multifaceted consequences of decentralization. A central concern within this theory is its influence on organizational efficiency and performance. Trisnaningsih and Fadhilah (2024) argue that decentralization facilitates more rapid decision-making and fosters managerial motivation, both of which contribute positively to overall organizational performance. Similarly, Li et al. (2018) demonstrate that decentralized structures promote innovation, particularly when senior leadership provides strategic support. They contend that decentralization enhances information flow across hierarchical levels and cultivates an organizational culture conducive to innovation. Foss et al. (2014) reinforce this perspective by asserting that decentralization grants managers greater autonomy to identify and capitalize on emerging opportunities, while still operating within the parameters of formal organizational structures.

Institutionalism in law represents a significant theoretical perspective that conceptualizes law not merely as a compilation of normative rules, but as the outcome of dynamic interactions between legal

structures and institutions that shape social norms, behaviors, and systems of governance. This theory underscores the pivotal role institutions play in constructing legal realities within specific social contexts. The institutionalist approach becomes particularly salient when analyzed in relation to organizational structures. Edelman et al. (2011) demonstrate that organizational arrangements perceived as fair and legitimate are often accepted by legal practitioners and the judiciary without critical scrutiny, despite empirical findings that reveal their inefficiencies. This phenomenon signals the necessity for a more critical evaluation of institutional legitimacy within legal processes. In the realm of legal pluralism, Santi Romano's theoretical contribution holds substantial relevance. Romano posits that every institution produces its own legal order, thereby reinforcing the notion that legal plurality constitutes an intrinsic element of the legal system rather than an anomaly. Vinx (2018) further elaborates on this premise, emphasizing its importance in understanding the complexity of legal systems across diverse cultural and societal landscapes.

Constitutionalism constitutes a foundational doctrine in the governance of modern states, aimed at restraining the exercise of state power and safeguarding the supremacy of law. It encompasses both theoretical and practical dimensions to ensure that governmental authority operates within the framework of constitutional norms and principles, thereby maintaining a balance between institutional power and the protection of individual rights. The central objective of constitutionalism is to establish a political system characterized by democracy, accountability, and resistance to arbitrary rule. Hariri (2020) asserts that the constitution must serve as the normative basis for legislative formation and must align legal objectives with constitutional principles to prevent state actions from becoming arbitrary. This perspective aligns with Zakaria's interpretation of constitutionalism, which cautions that the erosion of justice and equality within constitutional frameworks threatens the legitimacy of democratic systems (Kapiszewski et al., 2023). Additionally, Sofińska and Friedberg (2024) emphasize the critical importance of constitutional amendment procedures that adhere to democratic and legal standards, noting that such processes directly influence the evolution and integrity of constitutionalism.

Building upon the issues outlined above, the central legal problem addressed in this study concerns the extent to which Government Regulation No. 106 of 2021 establishes a coherent and constitutionally sound legal framework for the institutional structure of regional governance in Papua, as mandated by the revised Special Autonomy Law. To respond to this principal inquiry, the study will explore several derivative questions: What legal norms and institutional arrangements are introduced by PP No. 106/2021 for regional governance in Papua? To what extent do these norms conform to constitutional principles, particularly those relating to decentralization, legal certainty, and the protection of indigenous peoples' rights? What legal inconsistencies, normative gaps, or ambiguities are embedded within the regulation, and what are their implications for institutional functionality and accountability in the Papuan context? This research seeks to undertake a normative legal analysis of Government Regulation No. 106 of 2021 by applying methods of statutory interpretation and constitutional consistency assessment. Specifically, the study aims to analyze and interpret the legal architecture established by the regulation concerning the design, functions, and distribution of authority among regional government institutions in Papua. This includes examining the scope of authority conferred upon the provincial government, the administrative configuration of special institutions, and the interaction between statutory institutions and customary governance structures.

The second objective of this study is to evaluate the consistency of Government Regulation No. 106 of 2021 with the 1945 Constitution of the Republic of Indonesia (UUD 1945), particularly with regard to the principles of decentralization, legal certainty, and subsidiarity. This analysis also considers the regulation's alignment with the provisions of the Papua Special Autonomy Law Law No. 21 of 2001 as amended by Law No. 2 of 2021. The third objective is to identify legal gaps, normative ambiguities, and potential conflicts within the institutional and governance frameworks established by PP No. 106 of 2021. This includes a critical examination of areas where institutional mandates lack clarity or where overlapping legal norms may give rise to inefficiencies, regulatory inconsistencies, or administrative disputes among the central government, regional authorities, and indigenous Papuan communities.

This research offers both theoretical and practical contributions. From a theoretical perspective, it advances legal scholarship in the areas of decentralization theory, constitutionalism, and institutional legal analysis. By employing the frameworks of Legal Norm Theory and the Theory of Institutionalism in

Law, the study deepens the understanding of how legal frameworks operate within a multilayered system of governance, particularly in regions with special autonomy status such as Papua (Crank, 2003; Edelman et al., 2011; Pulido, 2012; Taekema, 2018). It also elucidates the dynamic interplay between formal legal norms, institutional arrangements, and constitutional imperatives.

Practically, this research provides valuable insights for policymakers, legal practitioners, and institutional stakeholders engaged in the governance of Papua. Within the broader context of Indonesia's ongoing efforts to navigate the complexities of asymmetric decentralization and regional pluralism, ensuring the clarity, legal coherence, and constitutional validity of regulatory instruments such as Government Regulation No. 106 of 2021 is essential. The confirmation that such regulations are both constitutionally grounded and administratively effective is critical to upholding legal certainty, promoting good governance, and ensuring justice for the indigenous communities of Papua. Furthermore, the findings of this study may serve as a reference for the development of future policy initiatives or regulatory reforms aimed at strengthening institutional governance in other special autonomous regions across Indonesia.

The novelty of this study lies in its exclusive application of a doctrinal and normative legal critique to Government Regulation No. 106 of 2021, grounded in established legal theories. It develops a legal-theoretical framework for assessing decentralization within the context of special autonomy, offering a structured analysis through the lens of constitutional and institutional law. Unlike existing interdisciplinary studies, this research delivers a focused legal-institutional examination that fills a critical gap in the current body of literature.

METHOD

This study adopts a doctrinal legal research method focusing on the interpretation of legal texts, particularly Government Regulation No. 106 of 2021, which implements Law No. 2 of 2021 on Special Autonomy for Papua. It uses normative analysis rather than empirical data, aligning with Marzuki's (2017) view that legal norms must be interpreted systematically through rational argumentation. The core aim is to critically assess the consistency of PP No. 106/2021 both vertically (with the Constitution and national laws) and horizontally (within the legal system) and to examine its implications for Papua's local governance, using theories of legal norms, decentralization, and legal institutionalism (Crank, 2003; Pulido, 2012; Taekema, 2018).

The study relies on primary legal sources such as the 1945 Constitution, Law No. 21/2001, Law No. 2/2021, and PP No. 106/2021. It also uses secondary sources, including academic literature on legal norms and decentralization, and tertiary sources like legal dictionaries and encyclopedias. Legal materials were gathered through library research using national legal portals and scholarly databases (Asriyani & Maskun, 2024). The normative analysis applied four interpretative techniques: grammatical (textual meaning), systematic (integration into the legal system), teleological (assessment of objectives), and historical (legislative background) (Hariri, 2020; Pakpahan et al., 2022).

A qualitative legal analysis using deductive-inductive and normative-argumentative reasoning was conducted, grounded in constitutional and administrative law principles. Comparative analysis with other autonomy models, such as Aceh under Law No. 11 of 2006, and international examples like Nunavut in Canada and the Mapuche region in Chile, helped highlight best practices and global parallels in indigenous rights and multilevel governance (Twining, 2021). The study aims to uncover legal inconsistencies in PP No. 106/2021, particularly regarding decentralization and indigenous rights, and to critique institutional structures and mandates within Papua's governance. It seeks to recommend legal reforms, potentially including judicial review by the Constitutional Court. Academically, it contributes to debates on asymmetric decentralization, constitutionalism, and normative legal methodology in Indonesia.

RESULTS AND DISCUSSION

General Findings: Normative Framework of Government Regulation No. 106 of 2021

A preliminary examination of Government Regulation No. 106 of 2021 indicates that the regulation functions as an implementing instrument of Law No. 2 of 2021, which amends Law No. 21 of 2001 concerning Special Autonomy for Papua. It delineates 23 administrative sectors under the jurisdiction of the Papua Regional Government, with a particular focus on strategic areas such as education, healthcare, local economic development, cultural preservation, environmental management, and infrastructure provision. In its formulation, Government Regulation No. 106/2021 appears to embody the principle of asymmetric decentralization by tailoring institutional structures and regional authority in accordance with the unique characteristics and rights of Indigenous Papuans (*Orang Asli Papua/OAP*). Despite this inclusive scope, structural inconsistencies remain evident, particularly concerning the clarity of authority distribution across various levels of government. For instance, the regulation insufficiently specifies the coordination and authority mechanisms related to the Papuan People's Assembly (*Majelis Rakyat Papua/MRP*) as a cultural representative body within the regional governance system. Likewise, the delineation of educational authority among central, provincial, and district or municipal governments remains susceptible to overlapping responsibilities.



Figure 1. Steps to Resolve Structural Ambiguity

To resolve the structural ambiguities embedded in the implementation of Government Regulation No. 106 of 2021, the central government must undertake a comprehensive revision and harmonization of its derivative regulations. This involves formulating or amending implementing rules such as ministerial or regional regulations that clearly articulate the mechanisms for coordination, implementation, and oversight of governmental authorities as stipulated in the regulation. A key priority lies in delineating the distribution of competencies among the central, provincial, and district or municipal levels, particularly within critical sectors such as education and culture.

In parallel, stakeholders must collaboratively develop cross-sectoral technical implementation guidelines. These guidelines should be jointly prepared by the relevant ministries including the Ministry of Home Affairs, the Ministry of Education and Culture, and the Ministry of Law and Human Rights together with the Papua Provincial Government and cultural institutions such as the Papuan People's Assembly (*Majelis Rakyat Papua/MRP*). Functioning as an operational instrument, these guidelines aim to prevent jurisdictional overlap and enhance the practical application of special autonomy by aligning it with local sociocultural contexts.

To further reinforce the institutional role of the MRP, the issuance of specific legal instruments either in the form of Government or Local Regulations is essential. Such regulations should explicitly define the MRP's scope of authority, procedural coordination frameworks, and its functional relationships

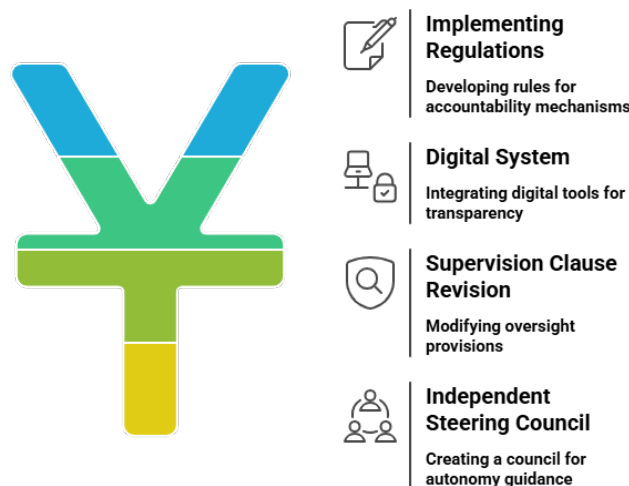
with regional administrative bodies and other state institutions. This legal affirmation is crucial to closing normative gaps that currently impede the MRP's effective involvement in strategic decision-making processes affecting Indigenous Papuans.

Additionally, the establishment of a Special Autonomy Coordination Forum is necessary to foster continuous dialogue among central and regional governments, the MRP, and civil society actors. This forum would serve as a platform for interpreting and resolving implementation issues in real time and could function as an early warning mechanism to mitigate potential conflicts of authority that may disrupt public service delivery. Finally, conducting periodic legal audits of the implementation of PP No. 106/2021 is imperative. These audits will help identify both normative inconsistencies and operational deficiencies, providing a robust evidentiary basis for regulatory reform and institutional capacity-building in Papua.

Vertical Compatibility: Constitutional Consistency Test

From a constitutional perspective, a key parameter for evaluating the validity of a regulation lies in its vertical compatibility with the enabling legislation and the 1945 Constitution. In this regard, Government Regulation No. 106 of 2021 does not entirely align with core constitutional principles, particularly the principle of legal certainty as enshrined in Article 28D(1) of the 1945 Constitution and the principle of decentralization articulated in Article 18 (UUD, 1945). Specifically, the regulation fails to clearly define mechanisms of accountability for institutions operating under the special autonomy framework, especially with respect to the governance of special autonomy funds and the assurance of public accountability. Moreover, certain provisions such as those related to the supervisory authority of the central government appear to undermine the spirit of substantive decentralization, which is constitutionally guaranteed, thereby raising concerns about potential normative inconsistencies within the regulatory framework.

Figure 2. Enhancing Accountability and Decentralization



To strengthen legal and institutional accountability within the framework of special autonomy, the central government, in coordination with the Papua Provincial Government, must formulate implementing regulations that clearly define accountability mechanisms for special autonomy institutions. These regulations should mandate the conduct of independent audits, the publication of periodic public financial reports, and the active participation of non-governmental stakeholders including the Papuan People's Assembly (MRP), academic institutions, and civil society organizations in overseeing the administration of Special Autonomy Funds. In support of transparency and fiscal responsibility, the government should also establish a legally mandated, integrated digital platform rooted in the principles of open governance. This system must enable real-time public access to information concerning the allocation and utilization of Special Autonomy Funds and should be administered by an autonomous institution accountable directly to the public and the Papua People's Representative Council (DPRP).

Moreover, the government ought to initiate targeted amendments to specific clauses in Government Regulation No. 106 of 2021 that confer supervisory powers to the central government. These revisions must incorporate explicit limitations and constitutional safeguards to ensure that supervisory authority functions as facilitative oversight rather than as centralized administrative control. Such an approach would maintain consistency with the principle of substantive decentralization enshrined in Article 18 of the 1945 Constitution. Finally, the establishment of an Independent Steering Council on Special Autonomy is essential to provide a structured mechanism of checks and balances. This body should include representatives from central and regional governments, indigenous communities, scholars, and state audit institutions. It would serve a dual purpose: ensuring that the implementation of special autonomy aligns with decentralization and constitutional mandates, and integrating vertical and horizontal accountability processes into a coherent oversight framework.

Normative Study: Legal Uncertainty and Vacuum

This study identified editorial inconsistencies and normative deficiencies within several provisions of Government Regulation No. 106 of 2021. A particularly notable issue lies in the absence of a clear delineation between the representative role of the Papuan People's Assembly (*Majelis Rakyat Papua/MRP*) and the legislative authority of the Papuan People's Representative Council (DPRP), especially in relation to the formulation and oversight of development policies grounded in the special autonomy framework. This regulatory ambiguity presents a legal vacuum that may give rise to jurisdictional conflicts. In addition, the regulation fails to provide a detailed mechanism for the meaningful participation of indigenous communities in regional development planning. This omission reflects a limited institutional acknowledgment of customary norms as integral components of Papua's plural legal system. Consequently, the findings reinforce the proposition that Government Regulation No. 106 of 2021 has yet to fully incorporate the principle of legal pluralism as conceptualized by Twining (2021) within the theoretical framework of legal institutionalism.

The government should undertake partial revisions of Government Regulation No. 106 of 2021 or formulate supplementary implementing regulations that explicitly delineate the functional boundaries between the cultural representational role of the Papuan People's Assembly (*Majelis Rakyat Papua/MRP*) and the legislative authority of the Papuan People's Representative Council (DPRP). This differentiation must be clearly articulated within the framework of the special autonomy development policy cycle including the stages of policy formulation, oversight, and evaluation to prevent overlaps in authority and mitigate institutional conflict. Establishing such normative clarity would enhance functional precision and reinforce the institutional architecture of special autonomy governance in Papua.

Both central and regional governments must develop a formal legal mechanism that guarantees the substantive participation of indigenous communities in regional development planning. This mechanism should regulate the right to consultation, ensure consent based on the principle of Free, Prior and Informed Consent (FPIC), and recognize the legitimacy of local customary and social structures. The legal embodiment of this mechanism may take the form of a Special Regional Regulation (*Peraturan Daerah Khusus* or *Perdasus*), thereby affirming the legal standing of indigenous norms within Papua's pluralistic legal framework.

To resolve the structural disconnect between state law and customary legal systems, the government must operationalize the principle of legal pluralism within the institutional design of special autonomy. As conceptualized by Twining (2021), this integration may be realized through the development of hybrid legal spaces that facilitate institutional coexistence and collaboration between state and customary actors in public decision-making, particularly on matters concerning customary land rights, cultural identity, and indigenous political participation.

Furthermore, the establishment of a *Customary Law-State Consultative Forum* at the provincial level in Papua is essential. This deliberative forum should unite state legal authorities executive and legislative with customary legal leaders, such as *ondoafi*, tribal chiefs, and community elders. The forum would serve not only as a platform for policy dialogue and legal harmonization grounded in Papua's socio-cultural diversity but also as a non-judicial reference mechanism for resolving disputes related to jurisdiction and authority.

Institutional Construction: Institutional Analysis

Within the framework of legal institutionalism, Government Regulation No. 106 of 2021 introduces a novel institutional configuration in Papua that holds normative potential (Crank, 2003; Edelman et al., 2011). However, its implementation lacks a sufficiently clear and operational governance structure. The formation of new bodies such as the Special Autonomy Fund Management Agency and institutions responsible for affirmative action has not been supported by a detailed bureaucratic design, well-defined cross-sector coordination mechanisms, or clearly established performance indicators. Consequently, the regulation presents an institutional vulnerability characterized by structural overdesign and the risk of overlapping authority among regional entities. This condition aligns with Edelman et al.'s (2011) critique of institutionalism, which argues that institutional legitimacy may be constructed symbolically without ensuring substantive effectiveness when it is not grounded in a robust and coherent normative framework.

The government must formulate a comprehensive institutional blueprint for the implementation of Special Autonomy in Papua that goes beyond hierarchical descriptions to include detailed specifications of functions, mandates, and operational workflows for each newly established unit. This blueprint should adhere to the principle of *fit for purpose*, ensuring that institutional formation is driven by functional imperatives rather than symbolic or formalistic representation.

INSTITUTIONAL BLUEPRINT OF SPECIAL AUTONOMY IN PAPUA

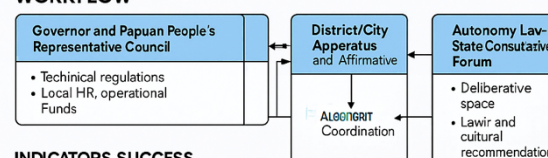
STRUCTURE

Special Autonomy	New	Governor level	Governance level
Special Autonomy Fund Management Agency	Provincial	Realizing a affirmant fund	Realizing affirmative programs for indigenous people
Affirmative Action Implementing Unit	Provincial Districts/City	Formulate and coordinate affirmative pro.	Align policies between central and local governments
Autonomy Coordination Desk	Cross-Government	Align policies between central and local governments	Issues cross-sector synchronization seeks
Customary Law-State Consultative Forum	Provincial		Initiates cross level forums

CORE FUNCTIONS AND AUTHORITIES

Special Autonomy Fund Management	Core Functions and Authorities	Core Governance Structure for non-litigious decision
<ul style="list-style-type: none"> Budget planning and monitoring uses of special autonomy Approving fund allocations and affirmative program 	<ul style="list-style-type: none"> Budget planning and monitoring uses of special autonomy Formulations set eligibility criteria Evaluate program outcomes 	<ul style="list-style-type: none"> Encourage indigenous participation in development policy Provides customary law-based resolutions for norm resolution Serves as space for non-litigious norm resolution

WORKFLOW



INDICATORS SUCCESS

Input	Technical regulations local HR	Output	Affirmative program Financial reports Coordination forums	Outcome	Welfare of indigenous people Effectiveness of Special Autonomy Law Funds recognition Law
Process	Implementation SOP				
Output	Inter unit coordination				

Figure 3. Institutional Blueprint of Special Autonomy in Papua

This blueprint is designed to align institutional structures with the substantive objectives of Papua's Special Autonomy, aiming to prevent the formation of symbolic or non-functional institutions and to support governance that responds to the needs of indigenous communities and local conditions.

The Special Autonomy Fund Management Agency (BP-DOP) is tasked with planning the Special Autonomy Fund budget based on sectoral needs, and with monitoring and evaluating fund disbursement. It approves allocations for priority programs and follows up on audit findings related to fund management. The Affirmative Action Implementing Unit (UPAP) formulates and coordinates affirmative

policies in education, economy, and gender. It sets criteria for program beneficiaries and conducts evaluations and annual reporting on achievements.

The Special Autonomy Coordination Desk acts as a mediator between ministries and local governments to ensure policy harmonization. It issues recommendations to align central and regional programs and facilitates cross-sector and intergovernmental coordination. The Customary Law–State Consultative Forum (FKHAN) promotes indigenous participation in policy-making and helps resolve conflicts between state and customary laws. It provides policy input based on local wisdom and offers non-judicial mechanisms for resolving normative or jurisdictional disputes.

Institutional performance is measured by specific indicators. Inputs include technical regulations, human resources, and funding; processes involve adherence to SOPs and inter-unit coordination; outputs are assessed by the number of implemented programs, financial reports, and coordination meetings; outcomes include improved indigenous welfare, efficient use of autonomy funds, and formal recognition of customary law.

Effective implementation also requires the development of technical frameworks to regulate coordination among Special Autonomy institutions. These frameworks must address both horizontal coordination among regional administrative bodies and vertical coordination with central government ministries. Coordination efforts should be institutionalized through a joint task force or a dedicated coordination desk endowed with binding authority and standardized operating procedures to ensure inter-agency coherence.

To promote accountability and prevent the emergence of structurally redundant institutions, the government should introduce a robust performance measurement framework. This system must incorporate key performance indicators (KPIs) that span input, process, output, and outcome dimensions. These indicators should be directly linked to mechanisms of public accountability, periodic performance evaluation, and incentive structures that reward institutional effectiveness. In addition, local governments working collaboratively with the Ministry of Home Affairs and the National Development Planning Agency (Bappenas) should conduct regular institutional audits of entities established under Government Regulation No. 106 of 2021. These audits must identify overlapping mandates, duplicative functions, and structural inefficiencies, thereby providing a rational basis for constitutional and performance-based institutional restructuring.

Finally, to address concerns about symbolic legitimacy as raised by Edelman et al. (2011), institutional design should incorporate the principle of functional pluralism. This principle recognizes that institutional legitimacy derives not only from formal existence but also from the capacity to address the socio-cultural, customary, and economic realities of local communities. Accordingly, meaningful participation by the Papuan People's Assembly (MRP), indigenous communities, and local stakeholders in both the design and evaluation of institutions is essential to ensure their substantive effectiveness and societal acceptance.

Legal Implications and Normative Recommendations

The findings of this study indicate the necessity of reformulating several normative provisions within Government Regulation No. 106 of 2021 to achieve both vertical and horizontal coherence, enhance legal certainty, and reinforce institutional accountability. The government should revise provisions that exhibit ambiguity, introduce derivative regulations that explicitly govern the implementation and oversight mechanisms of Special Autonomy funds, and clarify the legal status of cultural institutions such as the Papuan People's Assembly (MRP) within the regional governance framework. Moreover, it is essential to develop implementing regulations that enable the proportional and constitutionally grounded integration of customary law into the formal legal system. This reformulation process must involve the active participation of indigenous communities, legal scholars, and local governmental authorities to ensure that the resulting legal instruments possess robust social acceptability and political legitimacy.

To close implementation gaps in Papua's Special Autonomy, the government must enact detailed derivative regulations such as ministerial regulations, special regional regulations (*Perdasus*), and governor regulations that clearly guide fund allocation, public oversight, institutional accountability, development priorities, and the role of the Papuan People's Assembly (MRP) across the policy cycle,

including planning, execution, and evaluation. A distinct regulation is needed to reinforce the legal status of the MRP within regional governance. As a cultural body, the MRP should have legal standing equivalent to political institutions, especially in protecting indigenous rights and contributing authoritatively to strategic regional policies. Normative affirmation of this role would eliminate uncertainties about its function and legitimacy in the special autonomy framework.

Additionally, customary law must be integrated into the formal legal system while respecting constitutional limits and proportional representation. This can be achieved through *Perdasus* that formally recognize the authority of customary law in specific areas like land disputes, inheritance, and traditional governance. Hybrid legal mechanisms should also be developed to enable cooperation between state and customary legal systems, especially in policy processes affecting indigenous communities.

For these reforms to be socially and politically viable, the government must involve key stakeholders: indigenous communities as culturally legitimate actors, legal scholars for juridical reasoning, and local governments to ensure administrative feasibility and readiness. These measures aim not only to strengthen the normative basis of Government Regulation No. 106 of 2021 but also to foster a responsive and adaptive model of legal governance that reflects Papua's socio-cultural complexities while remaining aligned with constitutional principles and legal pluralism within the Unitary State of the Republic of Indonesia.

DISCUSSION

The analysis of Government Regulation No. 106 of 2021 reveals a clear orientation toward asymmetric decentralization, as seen in its regulation of 23 specific governmental functions in Papua. Despite intentions to accommodate Indigenous Papuans (OAP), the regulation suffers from structural ambiguities, particularly in the division of authority between the central government, provincial administration, and municipal levels. Overlapping regulations especially in education and the undefined role of the Papuan People's Assembly (MRP) exacerbate these issues. To resolve them, the government must enact derivative regulations (Ministerial Regulations, Governor Regulations, and *Perdasus*) that clearly define coordination procedures, implementation mechanisms, and sector-specific roles, particularly in education and culture. From a constitutional law perspective, PP No. 106/2021 falls short of the principles of legal certainty (Article 28D(1)) and decentralization (Article 18) of the 1945 Constitution (Presiden Republik Indonesia, 2021a; UUD, 1945). It lacks clear accountability mechanisms for Special Autonomy Funds, while retaining disproportionate central government control, undermining substantive autonomy. To address this, transparent accountability systems including independent audits, public disclosure, and participatory oversight by non-state actors like the MRP, civil society, and academia must be institutionalized. A digital platform enabling real-time fund monitoring is also necessary.

The regulation also reveals a legal vacuum in defining the distinct roles of the MRP (cultural representation) and the DPRP (legislative function), risking jurisdictional conflicts in policy-making and oversight. Moreover, the exclusion of Indigenous communities from development planning signals weak integration of customary legal systems, violating principles of legal pluralism. Implementing the Free, Prior, and Informed Consent (FPIC) principle through *Perdasus* is essential to legally formalize Indigenous participation in governance. In line with legal pluralism theories, the study recommends establishing an Indigenous-State Consultative Forum (FKHAN) (Twining, 2021). This forum would bridge formal institutions and Indigenous authorities (e.g., *ondoafi*, tribal leaders), providing culturally-informed policy input, mediating normative conflicts, and promoting harmonization between statutory and customary laws.

From a legal institutionalism perspective, the newly formed institutions BP-DOP, UPAP, and the Coordination Desk lack operational clarity, SOPs, and performance indicators, risking symbolic rather than functional significance (Crank, 2003; Edelman et al., 2011). To avoid "legal institutional symbolism", the government must adopt a comprehensive institutional blueprint specifying each agency's legal mandate, core functions, workflows, and performance metrics. For instance, BP-DOP should manage budgeting and audits, UPAP should lead affirmative policy and evaluation, the Coordination Desk should ensure intergovernmental policy alignment, and FKHAN should advocate for Indigenous rights and mediate conflicts. To prevent redundancy and ensure effectiveness, a structured performance evaluation

system is needed. Metrics should include inputs (resources, regulations), processes (SOP compliance, coordination), outputs (program implementation, financial reports), and outcomes (Indigenous welfare, fund efficacy, recognition of customary law). Periodic evaluations must be conducted by regional governments with support from the Ministry of Home Affairs and Bappenas, ensuring identification and resolution of structural inefficiencies.

In sum, this study recommends four key legal reforms: (1) revising ambiguous provisions of PP No. 106/2021 and issuing clear derivative regulations; (2) elevating the legal status of the MRP to match political institutions; (3) formally recognizing customary law through *Perdatus* and hybrid mechanisms; and (4) ensuring inclusive, participatory legal reform by involving Indigenous communities, legal experts, and local authorities. Ultimately, while PP No. 106/2021 offers a foundational legal structure for Papua's Special Autonomy, it is hindered by normative inconsistencies and institutional fragility. Realizing effective, just, and constitutionally-aligned governance in Papua requires a participatory, legally pluralistic, and substantively decentralized approach.

CONCLUSIONS

The study confirms that Government Regulation (PP) No. 106 of 2021 was enacted to implement the Papua Special Autonomy Law, assigning 23 governmental responsibilities to regional authorities. It emphasizes an asymmetric decentralization approach aimed at addressing Indigenous Papuans' (Orang Asli Papua/OAP) rights and local conditions. However, the regulation exhibits significant normative and structural weaknesses. Key issues include ambiguous authority distribution between central, provincial, and local governments especially in education and culture and unclear operational roles for the Papuan People's Assembly (Majelis Rakyat Papua/MRP), particularly in its coordination with the Papuan People's Representative Council (DPRP). Constitutionally, the regulation lacks full alignment with Article 28D(1) on legal certainty and Article 18 on substantive decentralization of the 1945 Constitution. Furthermore, it fails to ensure accountability and transparency in the management of Special Autonomy Funds.

The integration of state and customary laws remains incomplete, as the regulation does not establish a legal basis for Indigenous participation or formal dialogue mechanisms with traditional authorities. Additionally, newly created institutions such as the Papua Special Autonomy Fund Management Agency (BP-DOP) and the Papua Affirmative Implementation Unit (UPAP) lack proper bureaucratic infrastructure, operational standards, and performance metrics, risking their effectiveness. To address these gaps, the study recommends revising ambiguous provisions in PP No. 106/2021 and creating harmonized derivative regulations such as Ministerial Regulations, Special Regional Regulations (*Perdatus*), and Governor Regulations. The MRP should be elevated to a political institution with defined roles, and customary law should be formally integrated via *Perdatus* and a proposed Customary-State Law Consultative Forum (FKHAN). Finally, a comprehensive institutional blueprint with robust performance evaluation systems is essential to ensure functionality and constitutional legitimacy. These reforms could transform PP No. 106/2021 into a just, responsive, and effective legal framework for Papua.

SUGGESTIONS

The government must revise the ambiguous provisions in Government Regulation No. 106 of 2021 and develop detailed, harmonized derivative regulations including ministerial regulations, special regional regulations (*Perdatus*), and governor regulations to clarify coordination, authority distribution, and accountability mechanisms across key sectors. Strengthening the legal status of the Papuan People's Assembly (MRP) is crucial; the MRP should have a defined role in the regional policy cycle, particularly in planning, implementing, and evaluating policies affecting Indigenous Papuans (OAP). Customary law must be formally integrated into the legal system, potentially through a *Perdatus* that recognizes its authority in specific areas like land rights and traditional governance. A Customary Law-State Consultative Forum (FKHAN) is also needed to facilitate dialogue between indigenous leaders and state institutions.

Furthermore, the government should create a functional institutional blueprint that prioritizes substantive roles over symbolic representation. This includes defining institutional duties, workflows, coordination mechanisms, and performance indicators. Institutions like BP-DOP and UPAP should be evaluated regularly using an input-process-output-outcome framework to ensure they deliver tangible

results. The management of the Special Autonomy Fund must follow principles of transparency and accountability, requiring digital public reporting systems, independent audits, and oversight from civil society, academia, and customary bodies. By implementing these reforms, PP No. 106/2021 can become a constitutionally sound, adaptive, and inclusive framework capable of addressing Papua's governance challenges.

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