Sibatik Journal
Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, dan Pendidikan
E-ISSN: 2809-8544

THE REPEAL OF ARTICLE 28 OF THE PAPUA SPECIAL AUTONOMY LAW AND THE ISSUE OF POLITICAL REPRESENTATION FOR INDIGENOUS PAPUANS

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Abstract

The amendment of Law Number 21 of 2001 via Law Number 2 Tahun 2021 repealed Article 28 paragraphs (1) and (2), which previously provided a framework for strengthening the political representation of Indigenous Papuans (OAP) within the Papua Special Autonomy (Otsus Papua) regime. This amendment signifies a shift in the legal-political design of Papua's Special Autonomy, particularly regarding the regulation of OAP political representation as a component of Papua's asymmetric autonomy. This article examines the status of Article 28 within the design of OAP political representation and the constitutional implications of its repeal for Indonesia's constitutional system. This study employs normative legal research utilizing statutory, conceptual, and historical approaches. The findings indicate that Article 28 held a constitutional status as an instrument of constitutional recognition and affirmative governance within the Papua asymmetric autonomy regime. The repeal of Article 28 paragraphs (1) and (2) reflects a shift in the state's legal-political stance from an affirmative approach toward the harmonization of a more uniform national political system. This change results in a narrowing of the scope for affirmative political representation for OAP and a reduction in the asymmetric nature of Papua's Special Autonomy in the political sphere. Although political protections for OAP have not been entirely eliminated, the repeal of Article 28 nonetheless demonstrates a restructuring of the design for OAP political representation within Indonesia's constitutional system.

Keywords: Papua Special Autonomy, Asymmetric Autonomy, Political Representation, Indigenous Papuans (OAP), Constitutional Law.

INTRODUCTION

Papua Special Autonomy represents the state's constitutional acknowledgment of the historical, social, political, and cultural distinctiveness of Indigenous Papuans (OAP) within the framework of the Unitary State of the Republic of Indonesia. Through Law Number 21 of 2001, the state established an asymmetric autonomy model that emphasizes not only the decentralization of governmental authority but also the protection of the political rights of Indigenous Papuans as an indigenous group within Indonesia's constitutional system.

The concept of asymmetric autonomy is essentially a constitutional instrument designed to accommodate regions possessing unique historical, social, cultural, or political characteristics. In a unitary state, asymmetric autonomy serves as a mechanism for constitutional accommodation, balancing the maintenance of national integration with the accommodation of specific local demands (Huda, 2005). In the Papuan context, Special Autonomy is intended not merely as a policy of administrative decentralization but also as a form of state recognition regarding the identity and political rights of Indigenous Papuans (Asshiddiqie, 2011).

Political representation for indigenous communities holds a significant position in modern democracies, as it relates to the involvement of indigenous groups in political decision-making processes. Pitkin (2013) posits that political representation should not be

DOI: https://doi.org/10.47353/sibatik.v5i7.5304

understood solely as formal presence within political institutions; rather, it entails substantive advocacy for the interests of the represented group. In the context of indigenous communities, political representation is viewed as an instrument for protecting groups that have historically faced marginalization within the national political system (Kymlicka, 2000).

Within the Papua Special Autonomy framework, Article 28 of Law Number 21 of 2001 serves as a key provision for strengthening the political representation of Indigenous Papuans. This provision essentially creates space for the formation of local political parties and establishes political recruitment mechanisms that take into account the interests of Indigenous Papuans (Law Number 21 of 2001 concerning Special Autonomy for Papua Province, 2001). The presence of such provisions demonstrates that Papua's Special Autonomy was designed from the outset not merely as a distribution of governmental authority, but also as an instrument of political affirmation for the indigenous Papuan people (Bauw, 2016).

The strengthening of local political representation within the framework of Papua's Special Autonomy (Otsus) is intrinsically linked to the fundamental nature of asymmetric autonomy. In various constitutional practices, asymmetric autonomy is generally accompanied by the provision of specific political mechanisms designed to protect local identities and indigenous groups (Ghai, 2010). Consequently, regulations concerning the political representation of Indigenous Papuans (OAP) cannot be divorced from the overall constitutional design of Papua's Special Autonomy (Bauw, 2019).

However, the amendment of Law Number 21 of 2001 via Law Number 2 of 2021 has brought about significant changes to the legal-political framework of Papua's Special Autonomy. Key changes include the repeal of Article 28, paragraphs (1) and (2), alongside amendments to paragraphs (3) and (4). Following these changes, Article 28 merely stipulates that political recruitment by parties in Papua must prioritize Indigenous Papuans and allows parties to seek the views of the Papuan People's Assembly (MRP). The revised Special Autonomy format resulting from Law Number 2 of 2021 also underscores the necessity of re-evaluating the authority, institutional structures, financial arrangements, and rights of the Papuan people within the implementation of special autonomy (Bauw, 2025).

These changes have raised constitutional questions regarding the direction of protections for Indigenous Papuan political representation under the post-amendment Special Autonomy regime. On one hand, the government views the revision of Law Number 21 of 2001 as a means to enhance governance effectiveness and accelerate welfare-oriented development in Papua. On the other hand, the removal of provisions that previously secured space for local politics is seen as potentially narrowing the scope of affirmative political measures for Indigenous Papuans.

This issue is significant because the political representation of indigenous communities relates not only to procedural democracy but also to the recognition of the collective rights of indigenous groups within the constitutional system. Kymlicka (2000) explains that recognizing the rights of minority groups and indigenous communities is a crucial

DOI: https://doi.org/10.47353/sibatik.v5i7.5304

component of modern multicultural democracy. Thus, the regulations concerning the political representation of Indigenous Papuans (OAP) possess a constitutional dimension linked to the protection of indigenous rights within a democratic state governed by the rule of law.

In the context of the Indonesian constitution, recognition of indigenous communities is affirmed in Article 18B, paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which states that the state recognizes and respects customary law community units and their traditional rights, provided they remain in existence and align with societal development and the principles of the Unitary State of the Republic of Indonesia. Furthermore, guarantees of equality in governance and the protection of human rights are affirmed in Articles 28D and 28I of the 1945 Constitution.

The removal of certain provisions within Article 28 cannot be separated from the debate surrounding the enactment process of Law Number 2 of 2021. Various civil society groups in Papua have assessed that the revision was carried out with limited participation from the Papuan people, including the involvement of OAP representative bodies such as the Papuan People's Assembly (MRP) (Indonesia, 2021). This issue has sparked debate regarding democratic legitimacy and "meaningful participation" in the formulation of legislation directly affecting the rights of the Papuan people.

Additionally, the changes to Article 28 raise questions regarding the consistency of Papua's asymmetric autonomy framework. A key characteristic of asymmetric autonomy is the recognition of special political mechanisms that differ from those in other regions (McGarry & O'Leary, 1993). When provisions that previously accommodated the strengthening of local political representation are removed or restricted, questions arise as to whether these changes signify a restructuring of the special autonomy design or, conversely, point toward a trend of political re-centralization in central-regional relations concerning Papua. To date, research on Papua's special autonomy has largely focused on issues such as policy implementation, the management of special autonomy funds, political conflict, and the socio-economic development of the Papuan people. Meanwhile, studies specifically analyzing the constitutional implications of repealing Article 28 for the political representation of Indigenous Papuans (OAP) remain relatively limited. Yet, this change carries significant consequences for the relationship between the state, asymmetric autonomy, and the protection of the political rights of indigenous communities within Indonesia's constitutional system.

Based on the foregoing, this article examines the repeal of Article 28 from the perspective of constitutional law, focusing on its implications for the political representation of Indigenous Papuans (OAP). This study is crucial for assessing whether the change represents a restructuring of the political representation framework within the Papua Special Autonomy (Otsus) scheme or, conversely, signals a weakening of the constitutional protection of Indigenous Papuans' political rights.

DOI: https://doi.org/10.47353/sibatik.v5i7.5304

LITERATURE REVIEW

Theory of Asymmetric Autonomy (Asymmetric Decentralization)

Asymmetric autonomy (asymmetric decentralization) is a form of decentralization that grants special treatment to specific regions based on historical, political, social, cultural, or conflict-related characteristics that differ from those of other regions within a unitary state (Ghai, 2010). This concept evolved as a form of constitutional accommodation designed to maintain national integration while simultaneously accommodating the unique characteristics of specific regions, including indigenous communities (Lele, 2023). From a constitutional law perspective, asymmetric autonomy relates not only to the distribution of governmental authority but also encompasses constitutional recognition of the political identities and rights of specific groups (McGarry & O'Leary, 1993). Consequently, the design of asymmetric autonomy is generally accompanied by special protection mechanisms, such as affirmative political representation, the recognition of customary institutions, and specific political powers that differ from those of other regions.

In the context of Papua, the Special Autonomy (Otsus) for Papua was established not merely as an administrative decentralization policy but also as an instrument of state legal policy to address historical issues and demands for the recognition of Indigenous Papuans (OAP) (Sejati & Kartono, 2024). The concept of "affirmative governance" within the Papua Special Autonomy framework is reflected in the strengthening of OAP representation in local government, the establishment of the Papuan People's Assembly (MRP), and the regulations governing OAP political representation (Bauw, 2019). Thus, the repeal of an article concerns not only a change in technical legislative norms but also an alteration to the design of asymmetric autonomy and the mechanisms for political affirmation regarding Indigenous Papuans.

Theory of Political Representation

Political representation is fundamentally a concept that explains the relationship between representatives and those they represent within a democratic system. (Pitkin, 2013) explains that political representation is not merely defined as formal representation within political institutions but also encompasses substantive representation—specifically, the extent to which the interests of the represented group are genuinely championed within the political process (Kymlicka, 2000). In the context of indigenous communities, political representation serves as a crucial instrument for preventing the marginalization of indigenous groups within the national political system and ensuring their participation in public policymaking (Pitkin, 2013). Consequently, various multicultural nations have developed affirmative representation models as a means of protecting indigenous groups and political minorities.

From a constitutional law perspective, the political representation of indigenous communities relates not only to procedural democracy but also to the protection of collective rights and the recognition of the political identity of indigenous groups (Sutejo et al., 2023). Will Kymlicka explains that indigenous communities require a form of "differentiated

DOI: https://doi.org/10.47353/sibatik.v5i7.5304

citizenship"—achieved through special political protections and affirmative mechanisms—to ensure substantive equality within a democratic state (Tjandra & Riawan, 2023). In the context of Papua, the regulations concerning the political representation of Indigenous Papuans (OAP) under the Special Autonomy (Otsus) framework constitute part of an affirmative design intended to guarantee OAP participation in the regional political system (Bauw, 2019). Thus, amendments to Article 28 have the potential to impact the design of substantive OAP representation within the Papuan special autonomy regime.

Multicultural Citizenship Theory and Indigenous Peoples' Rights

The theory of multicultural citizenship emerged as a critique of the liberal concept of citizenship, which tends to treat all citizens uniformly without regard for the distinct social, cultural, and historical identities of specific groups (Kymlicka, 2000). Will Kymlicka explains that indigenous peoples require special protection—through the recognition of collective rights, affirmative political representation, and specific institutional arrangements—to ensure substantive equality within a multicultural democracy (Asshiddiqie, 2011). In this context, the recognition of indigenous peoples is understood not merely as a social policy but as a form of constitutional recognition of the identity and political rights of indigenous groups within the constitutional system.

In the Indonesian context, constitutional recognition of indigenous communities (*masyarakat adat*) is affirmed in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which recognizes and respects customary law community units along with their traditional rights (Arizona, 2022). Regulations concerning the political representation of *Orang Asli Papua* (OAP—Indigenous Papuans) constitute part of the state's affirmative policy to protect the political rights of indigenous peoples in Papua. Therefore, the repeal of Article 28 cannot be viewed merely as a technical legislative amendment; it also bears upon the direction of constitutional protection for the political rights of OAP within Indonesia's constitutional system.

Indigenous Constitutionalism Theory

The theory of indigenous constitutionalism stems from the idea that indigenous peoples should not be positioned merely as objects of state protection, but as constitutional subjects possessing political rights, collective identities, and a space for participation within the constitutional framework (Arizona, 2022). From this perspective, the constitution is viewed not only as regulating the relationship between the state and individual citizens but also as recognizing the existence of indigenous communities as political entities with the right to preserve their identities, cultures, and political representation (Asshiddiqie, 2011). Consequently, constitutional recognition of indigenous communities is generally realized through mechanisms such as affirmative representation, the recognition of customary institutions, and the granting of special authority within the system of governance.

In the Indonesian context, constitutional recognition of indigenous communities is reflected in Article 18B, paragraph (2), and Article 28I, paragraph (3) of the 1945

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Constitution of the Republic of Indonesia. Provisions regarding the political representation of OAP (Indigenous Papuans) can be understood as part of a framework of indigenous constitutionalism, as they provide affirmative space for OAP within the regional political system. Thus, the repeal of Article 28 concerns not only a shift in local political norms but also raises questions regarding the consistency of the state's constitutional recognition of the political rights of indigenous communities in Papua.

METHOD

This study is a normative legal research project employing statutory, conceptual, and historical approaches to analyze the repeal of Article 28 of Law Number 21 of 2001—as amended by Law Number 2 of 2021—from the perspective of constitutional law (Marzuki, 2017). The statutory approach is utilized to examine changes in norms regarding the political representation of Indigenous Papuans (OAP), while the conceptual approach is used to analyze the concepts of asymmetric autonomy, political representation, and the protection of indigenous rights within the constitutional system (Ibrahim, 2013). Meanwhile, the historical approach is employed to examine the background behind the enactment and subsequent amendment of Article 28 within the Papua Special Autonomy regime (Marzuki, 2017). The legal materials utilized consist of primary sources (legislation), secondary sources (relevant books, scholarly journals, and academic documents), and tertiary sources as supplementary material. All legal materials are analyzed qualitatively using a descriptive-analytical method to assess the constitutional implications of repealing Article 28 on the political representation of Indigenous Papuans within Indonesia's constitutional system.

Studies on Papua's Special Autonomy (Otsus) have thus far largely focused on policy implementation, the management of special autonomy funds, the advancement of Papuan community welfare, and the dynamics of political and security conflicts in the region. Additionally, research has examined the effectiveness of special autonomy implementation through the lenses of decentralization and central-local government relations. However, studies specifically analyzing the repeal of Article 28 from a constitutional law perspective remain relatively limited—particularly those addressing the issues surrounding the political representation of Indigenous Papuans (OAP) within the framework of Papua's asymmetric autonomy. This study offers a novel contribution by not only examining the juridical changes to the norms of Article 28 but also analyzing the constitutional implications for OAP political representation, the constitutional recognition of indigenous communities, and the direction of the legal policy regarding Papua's Special Autonomy following the enactment of Law Number 2 of 2021.

RESULTS AND DISCUSSION

The Design of Asymmetric Autonomy and OAP Political Representation in Law No. 21 of 2001

Law No. 21 of 2001 was essentially enacted as the state's political and constitutional response to historical, social, and political issues in Papua (Asshiddiqie, 2011). Papua's

DOI: https://doi.org/10.47353/sibatik.v5i7.5304

special autonomy was not designed merely as a policy of administrative decentralization, but rather as a form of asymmetric autonomy that grants specific distinctiveness to Papua in the conduct of regional governance (Ghai, 2010). From a constitutional law perspective, this design demonstrates state recognition of Papua's unique characteristics, which require arrangements distinct from those of other regions within the framework of the Unitary State of the Republic of Indonesia (Huda, 2005). Consequently, Papua's special autonomy (Otsus) regulates not only the distribution of governmental authority but also establishes mechanisms for political protection and the recognition of Indigenous Papuans (OAP).

The asymmetric nature of Papua's special autonomy is reflected in various specific provisions not found in the general regional governance regime. These specific features include the establishment of the Papuan People's Assembly (MRP) as a cultural representative body for OAP, the prioritization of OAP for certain positions, the recognition of indigenous community rights, and regulations concerning regional symbols and identity (Kymlicka, 2000). The existence of these provisions indicates that Papua's special autonomy is built upon a framework of constitutional recognition regarding the socio-political identity of OAP as an indigenous community within Indonesia's constitutional system (Lele, 2023).

A significant aspect of reinforcing Papua's political distinctiveness within Law No. 21 of 2001 is the provision regarding OAP political representation found in Article 28. This provision essentially creates space for the formation of local political parties in Papua and establishes political recruitment mechanisms that take OAP representation into account (Pitkin, 2013). In this context, Article 28 cannot be understood merely as a technical norm regarding political parties, but rather as part of an affirmative design to ensure OAP involvement in the regional political system. The inclusion of this provision demonstrates the legislature's effort to establish a model of political representation that is more responsive to the socio-political characteristics of Papua. Theoretically, the regulations concerning the political representation of Indigenous Papuans (OAP) within the framework of Papua's Special Autonomy align with the concept of "affirmative representation" in multicultural states (Sejati & Kartono, 2024). This concept identifies indigenous groups as requiring special political protection to ensure their substantive involvement in public policy-making processes. In the Papuan context, affirmative political representation is considered crucial because Indigenous Papuans have historically been vulnerable to political marginalization resulting from national political configurations and demographic dynamics within the region. Consequently, provisions regarding the political participation of Indigenous Papuans constitute an integral part of the design of Papua's asymmetric autonomy.

Furthermore, the existence of Article 28 demonstrates that Papua’s special autonomy was not aimed solely at the decentralization of governmental authority from the outset, but also at establishing a more inclusive local political space for Indigenous Papuans (OAP). Through provisions regarding local political parties and political recruitment mechanisms, Papua’s special autonomy seeks to create a political framework that enables OAP to hold a stronger position within the regional political structure. From a constitutional law perspective, this design can be understood as a form of "affirmative governance" that grants

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special treatment to ensure substantive equality for indigenous groups within the democratic system.

However, the provisions concerning OAP political representation in Article 28 are also subject to debate regarding the boundary between political affirmation and the principle of uniformity in the national party system. In Indonesia's constitutional system, the political party regime is fundamentally constructed within a national framework via the Political Party Law, which applies generally across the entire country. Consequently, the regulation of local political parties in Papua is viewed as a form of constitutional deviation that can only be justified within the framework of asymmetric autonomy. This indicates that Article 28 holds a strategic position in preserving the unique character of Papua within Indonesia's constitutional system.

Thus, Article 28 is not merely an administrative norm regarding political parties and recruitment; rather, it is an integral part of the constitutional design for Papua's asymmetric autonomy, aimed at strengthening OAP political representation. These provisions reflect the state's effort to establish affirmative mechanisms to guarantee indigenous participation in the regional political system. Therefore, any amendment to or repeal of this norm carries significant implications for the trajectory of OAP political protection under the special autonomy regime.

The Politics of Law Regarding the Repeal of Article 28 in Law Number 2 of 2021

The amendment of Article 28 signals a shift in the state's legal-political approach to Papua's special autonomy, particularly concerning OAP political representation (Arizona, 2022). One such fundamental change was the repeal of Article 28, paragraphs (1) and (2), which had previously provided a regulatory framework for political parties in Papua and mechanisms for the political recruitment of Indigenous Papuans (OAP) (Asshiddiqie, 2011). Following this amendment, Article 28 merely stipulates that political recruitment by parties in Papua must prioritize Indigenous Papuans and allows parties to seek the views of the Papuan People's Assembly (MRP). This simplification of the legal norm indicates a shift in the orientation of regulations regarding Papuan political representation: moving away from strengthening the local political sphere toward greater integration with the national political system.

Historically, debates concerning local political parties in Papua have existed since the enactment of Law Number 21 of 2001. The phrase "political party" in Article 28, paragraph (1) gave rise to multiple interpretations regarding whether the provision established a legal basis for forming local political parties in Papua—similar to the arrangement applicable in Aceh (Kymlicka, 2000). This debate was subsequently addressed through Constitutional Court Ruling Number 41/PUU-XVII/2019. In that ruling, the Constitutional Court (MK) affirmed that the phrase "political party" in Article 28 could not be interpreted to mean a local political party (Lele, 2023). The Court held that the lawmakers had not explicitly provided for local political parties within the design of Papua's special autonomy—unlike the specific provisions found in the Law on the Government of Aceh (Siwi et al., 2021).

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Constitutional Court Ruling Number 41/PUU-XVII/2019 essentially demonstrates an approach wherein the Court views Papua's special status in more limited terms within the context of the national party system. The Court interpreted Papua's special status as excluding the formation of local political parties because the lawmakers had not expressly regulated such a matter (Constitutional Court Ruling Number 41/PUU-XVII/2019, 2019). Consequently, the regulation of political parties in Papua remains subject to the national legal framework governing political parties. This ruling subsequently served as a key basis for the amendment of the Papua Special Autonomy Law via Law Number 2 of 2021, particularly through the removal of a provision that had previously been seen as open to multiple interpretations regarding local political parties in Papua.

In addition to Ruling Number 41/PUU-XVII/2019, the constitutional dynamics surrounding the revision of the Papua Special Autonomy Law also involve Constitutional Court Ruling Number 47/PUU-XIX/2021, which reviewed the amendments made to Law Number 21 of 2001 via Law Number 2 of 2021. In that case, the Court affirmed in principle that the enactment of Law Number 2 of 2021 fell within the authority of the legislature, provided it adhered to the established procedures for enacting legislation (Constitutional Court Ruling Number 47/PUU-XIX/2021, 2022). However, the case also highlighted a significant debate regarding the participation of the Papuan people and the involvement of the Papuan People's Assembly (MRP) in the process of amending the Papua Special Autonomy Law. This issue demonstrates that changes to norms concerning the political representation of Indigenous Papuans (OAP) involve not only the substance of the legislation but also the democratic legitimacy of the law-making process.

Debate regarding Papua’s political distinctiveness resurfaced in Constitutional Court Ruling Number 93/PUU-XXII/2024, which concerned a review of norms within the political and special autonomy regime of Papua. Although the Court maintained the position that the national party system serves as the primary framework for Indonesia’s constitutional system, the ruling revealed a tension between the principle of a uniform national political system and demands to strengthen the political representation of Indigenous Papuans within the framework of asymmetric autonomy (Constitutional Court Ruling Number 93/PUU-XXII/2024, 2024). Thus, this series of Constitutional Court rulings demonstrates that the issue of Papuan political representation remains caught in a tug-of-war between strengthening regional distinctiveness and integrating into the national political system. From the perspective of the politics of law, the repeal of Article 28 reflects a trend toward harmonizing national legal policy by prioritizing the integration of political institutions over the strengthening of Papua’s distinct political character. In the general elucidation of Law Number 2 of 2021, the government emphasizes the importance of effective governance and the synchronization of national policies in the implementation of Papua’s special autonomy. However, the removal of a provision that previously created space for local political affirmation is viewed as potentially diminishing the asymmetric nature of Papua’s special autonomy, particularly regarding the political representation of Indigenous Papuans (OAP).

Furthermore, the process of amending the Papua Special Autonomy Law has sparked

DOI: https://doi.org/10.47353/sibatik.v5i7.5304

criticism concerning the principle of "meaningful participation" in legislation. Various civil society groups and academics argue that the involvement of the Papuan community—including the Papuan People's Assembly (MRP)—in the revision of the law remained limited. From the perspective of democratic constitutional law, the formulation of regulations directly affecting the rights of indigenous peoples should involve effective participation to ensure constitutional legitimacy and the protection of directly impacted groups. Consequently, the legal-political decision to repeal Article 28 concerns not only changes to norms regarding political parties but also reflects a shift in the nature of the state's relationship with OAP political representation within the Papua special autonomy regime.

Constitutional Implications of Repealing Article 28 for OAP Political Representation

The repeal of Article 28, paragraphs (1) and (2), carries constitutional implications for the design of OAP political representation within the Papua special autonomy regime (Arizona, 2022). Prior to the legislative amendment, Article 28 provided a normative framework for political parties and recruitment mechanisms that took into account the representation of Indigenous Papuans (Kymlicka, 2000). Although the Constitutional Court, through Decision Number 41/PUU-XVII/2019, affirmed that the phrase "political party" in Article 28 cannot be interpreted as a basis for establishing local political parties in Papua (Lele, 2023), a number of academic studies assess that the provision remains significant as a form of recognition of the need for specific political representation for Indigenous Papuans (OAP) within the framework of asymmetric autonomy (Pitkin, 2013).

The first constitutional implication is evident in the narrowing scope for constitutional recognition regarding Papua's political distinctiveness (Siwi et al., 2021). In the theory of asymmetric autonomy, special political arrangements constitute a crucial element of constitutional accommodation for regions possessing specific socio-political characteristics. Lele (2023) explains that the asymmetric autonomy design in Papua was fundamentally established to accommodate demands for political recognition and the identity of Indigenous Papuans (OAP) within Indonesia's constitutional system. Consequently, the removal of provisions that previously facilitated the strengthening of local politics signals a shift in the state's orientation from an affirmative approach toward a more uniform harmonization of national politics.

The second implication concerns the weakening of the affirmative political representation model for Indigenous Papuans. Pitkin (2013) explains that political representation entails not only formal presence within political institutions but also substantive representation of the interests of specific groups. In the Papuan context, the regulations regarding Indigenous Papuan political representation in the previous Special Autonomy Law were part of an affirmative design intended to prevent the political marginalization of indigenous communities. With the elimination of provisions that opened space for strengthening local politics, Indigenous Papuan political representation has become increasingly dependent on national political party mechanisms—structures that may not necessarily be capable of substantively representing Indigenous Papuan political interests.

DOI: https://doi.org/10.47353/sibatik.v5i7.5304

This situation reflects a reduction in the scope for political affirmation originally envisioned in the special autonomy design for Papua. Yet, such affirmation is also required within the Papuan People's Assembly (MRP) institutions, as well as in matters of civil service, education, and regional legal products addressing Indigenous Papuan interests (Bauw, 2016).

The third implication is observed in the trend toward a more centralized national political system. Constitutional Court Decision Number 41/PUU-XVII/2019 essentially positions the national party system as the primary framework for Indonesia's political landscape, rejecting the interpretation that Papua possesses a special status allowing for the formation of local political parties—a right granted to Aceh. This approach was subsequently reinforced by the repeal of Article 28, paragraphs (1) and (2). Thus, these changes indicate a tendency by the state to steer Papua's political integration toward a uniform national party system design. From the perspective of asymmetric autonomy, this situation can be understood as a curtailment of the space for political self-governance for Indigenous Papuans (OAP) within the regional political system.

Furthermore, the constitutional implications of repealing Article 28 also relate to the protection of indigenous peoples' rights under the Indonesian Constitution. Article 18B, Paragraph (2) of the 1945 Constitution affirms state recognition of customary law communities and their traditional rights, while Article 28I, Paragraph (3) affirms respect for cultural identity and the rights of traditional communities. From Kymlicka's (2000) perspective, indigenous peoples require special political protection through "differentiated citizenship" to ensure substantive equality within a multicultural democracy. Consequently, reducing the affirmative space for OAP political representation by repealing Article 28 can be viewed as a narrowing of the constitutional protection mechanisms for the political rights of indigenous peoples in Papua.

However, these implications do not mean that all forms of political protection for OAP have been eliminated. Law Number 2 of 2021 retains provisions regarding priority for OAP in political recruitment by political parties, as well as the existence of the Papuan People's Assembly (MRP) as a cultural representative body for OAP (Law Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province). Indeed, in Constitutional Court Decisions Number 47/PUU-XIX/2021 and Number 93/PUU-XXII/2024, the Court continued to acknowledge Papua's distinct status within the special autonomy framework, albeit within the limits defined by the national constitutional system. Thus, the removal of Article 28 is more accurately understood as a restructuring and narrowing of the scope for affirmative political representation for Indigenous Papuans (OAP), rather than a total elimination of political protections for them within the framework of Papua's special autonomy regime.

CONCLUSION

Article 28 holds a constitutional position within the design of Papua's asymmetric autonomy, aiming to strengthen the political representation of Indigenous Papuans (OAP) in the regional governance system. This provision not only regulates technical aspects of

DOI: https://doi.org/10.47353/sibatik.v5i7.5304

political parties and recruitment but also represents a form of constitutional recognition and affirmative governance for OAP as an indigenous community within the framework of the Unitary State of the Republic of Indonesia. Thus, Article 28 serves as an affirmative political instrument that distinguishes Papua's special autonomy design from the general regional governance regime.

The repeal of Article 28, paragraphs (1) and (2), results in a narrowing of the scope for affirmative political representation for OAP and diminishes the asymmetric nature of Papua's special autonomy in the political sphere. Although political protections for OAP have not been entirely eliminated—given the continued prioritization of OAP in political recruitment and the existence of the Papuan People's Assembly (MRP)—these changes signal a shift in the state's legal-political stance from an approach of constitutional accommodation toward the harmonization of a more uniform national political system. Consequently, the scope for strengthening substantive political representation for OAP within Indonesia's constitutional system becomes increasingly limited.

Recommendations

The government needs to reinforce the design of political representation for Indigenous Papuans (OAP) within the implementation of Papua's special autonomy through affirmative policies capable of guaranteeing their substantive involvement in political processes and public policy-making. Such reinforcement is crucial to upholding the principles of asymmetric autonomy and the constitutional recognition of indigenous communities within Indonesia's state system.

Any policy changes regarding Papua's special autonomy must be grounded in the principle of "meaningful participation," effectively involving the Papuan People's Assembly (MRP), indigenous communities, and various elements of Papuan society, to ensure that these changes do not lead to a dilution of Papua's special status—particularly concerning OAP political representation.

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