

The Special Status of Papua in the New Format of Special Autonomy and the Concept of Regional Autonomy in the Perspective of Islamic Law

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Abstract

This article examines the concept of Papua's specialness in the context of special autonomy, focusing on changes in format and its implementation in Papua Province. This study aims to analyze the implementation of the new format of special autonomy within the national legal framework and assess the conformity of the new format of special autonomy with the principles of Islamic law. Through the normative legal method, this article explores the legal aspects of Papua's special autonomy, including the authority given to the regional government, institutions, finances, including the rights of the Papuan people. This study uses primary and secondary legal sources, including laws and regulations, the Qur'an, Hadith, fatwas, and the views of scholars on regional autonomy in the context of Islam. And data is collected through documents and interviews. The findings of this study indicate that Papua's special autonomy provides space for regional governments in Papua Province to determine policies that are more in line with the needs of the community, but its implementation is still not optimal. From the perspective of Islamic Law, the concept of regional autonomy based on the principles of independence and justice is in line with special autonomy, namely in the management of power based on the principles of deliberation, avoiding exploitation, and maintaining the welfare of the people. The conclusion of this study is important to integrate the principles of Islamic Law within the framework of regional autonomy, in order to

create a government that is more just, transparent, and in accordance with the religious and social values that exist in society.

Keywords: Authority, Institutions, New Format Finance, Islamic Law.

Introduction

Papua's Special Autonomy through Law Number 21 of 2001 is the first law in Papua Province that contains special characteristics of Papua.¹ The existence of this law was motivated by the conditions at that time, Indonesia was in turmoil caused by economic, legal, and political crises. Papua took advantage of the momentum of the unrest to convey its aspirations to President B.J. Habibie at that time to separate from Indonesia. This led to the establishment of a special regional status for Papua Province with regulations regarding authority, institutions, and finances that were different from other provinces in Indonesia. This means that the existence of Special Autonomy for Papua is an agreement between the Central Government and Papua Province to resolve problems in Papua Province. This agreement is realized through the special nature of Papua Province in the aspects of "authority, institutions, and finances" which are special. These three aspects also show the differences in the implementation of decentralization in Papua Province with other provinces in Indonesia.

These special authorities, institutions and finances seem to indicate a high level of decentralization in Papua's Special Autonomy.^{2,3} However, in its implementation, differences were found, even shifting far from its birth philosophy. This is indicated by the implementation of authority which is interpreted as a government affair as the implementation of regional government in other provinces, as well as the institutions of the MRP and DPRP, the appointment mechanism which does not yet have optimal authority, and uniform financial management for all of Indonesia. On this basis, the issue that needs to be studied further is to what extent does Papua Province have its own characteristics in the new format of Papua's special autonomy? The principle of decentralization is commonly used in the governance of a country, especially a country that is unitary and has a heterogeneous population with a very high level

¹ Pemerintah Republik Indonesia and Perubahan Kedua Atas, 'Undang-Undang Nomor 21 Tahun 2001 Tentang Otonomi Khusus Bagi Provinsi Papua', *Lembaran Negara Republik Indonesia Tahun*, 2001.

² Bayu Dardias Kurniadi, 'Desentralisasi Asimetris Di Indonesia', *Politik Dan Pemerintahan*, 2012, pp. 1–11.

³ Ofelia Maria Paendong, Flora Pricilla Kalalo, and Michael G. Nainggolan, 'Kedudukan Dan Kewenangan Pemerintah Pusat Terhadap Otonomi Khusus Provinsi Papua Menurut UU No. 2 Tahun 2021 Tentang Perubahan Kedua Atas UU No. 21 Tahun 2001 Tentang Otonomi Khusus Bagi Provinsi Papua', *Lex Privatum*, 10.1 (2022), pp. 1–40 <<https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/40372>>.

of diversity, especially accompanied by a high level of geographical difficulty.⁴ This is a logical awareness that decentralization is considered capable of being an instrument in bringing services closer to the community as well as a means of empowering the community to participate in government.⁵ Therefore, decentralization is absolutely used in regulating relations within the country between levels of government or between agencies/organizations within the country.

Djohermansyah Djohan stated that: decentralization which he called asymmetric in the context of Papua, is not the delegation of ordinary authority, but rather the transfer of special authority which is only given to certain regions.⁶ On that basis, through the special autonomy of Papua, the Province of Papua is given authority, not authority or government affairs. According to Atmosudirjo, authority has a broader meaning than just authority. Authority (authority, *gesag*) is power over a certain group of people or power over a certain comprehensive field of government (field of affairs), while authority (competency, *bevoegdheid*) only concerns certain parts.⁷

This is based on the idea that through the implementation of decentralization policies, it will accelerate the formation of new autonomous regions.^{8,9} These autonomous regions have regional autonomy, namely the right, authority, and obligation to regulate and manage their own household affairs. It is hoped that by regulating their own household affairs, it will mature and accelerate regional independence which will ultimately lead to increased community welfare. In the context of regional independence and making government effective and efficient, decentralization with a high level of decentralization is the best choice in reducing central work in the regions. However, there are still many problems that occur from several aspects such as; 1) authority aspect, there is no regional independence in regulating and managing its household affairs. 2) institutional aspect, there is no special authority for regional institutions with special status. 3) financial aspect, there is no difference in fund management in managing the receipt of special autonomy funds.

⁴ Ni'matul Huda, *Hukum Pemerintahan Daerah* (Nusa Media, 2019).

⁵ Okparizan Okparizan and Doni Septian, 'Kewenangan Kelurahan Pasca Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah', *KEMUDI: Jurnal Ilmu Pemerintahan*, 1.2 (2017), pp. 51–74.

⁶ Djohermansyah Djohan, 'Fenomena Etnosentrisme Dalam Penyelenggaraan Otonomi Daerah', *Desentralisasi Dan Otonomi Daerah: Desentralisasi, Demokratisasi & Akuntabilitas Pemerintahan Daerah*, 2005, p. 209.

⁷ Atmosudirjo Prajudi, 'Hukum Administrasi Negara', *Edisi Revisi Ilmu Administrasi*, (Ghalia, Jakarta 1995), 1994.

⁸ Karmila Sinen, Aulia Sasmita Ningrum, and Oktoviana Angela Kabes, 'Strategi Pemerintah Dan Masyarakat Dalam Menjemput Daerah Otonomi Baru Papua Barat Daya Pemekaran Provinsi Papua Barat', *JISIP UNJA (Jurnal Ilmu Sosial Ilmu Politik Universitas Jambi)*, 2022, pp. 45–54.

⁹ Arief Maulana, 'Faktor-Faktor Pembentukan Daerah Otonomi Baru Dan Dampaknya Terhadap Keuangan Negara', *Ekuitas: Jurnal Pendidikan Ekonomi*, 7.2 (2019), pp. 53–67.

There are several studies that examine the characteristics of Papua through the old format of Papua's special autonomy (Law Number 21 of 2001), First, Political and Policy Implications after the Papua Special Autonomy Law Volume II. 2021. By Arya Fernandes.¹⁰ Second, Optimizing the Use of Special Autonomy Funds for Accelerating Development in Papua Province. 2024. Hari Suriadi et al.¹¹ Third, The Effectiveness of Special Autonomy Status in Papua Province in Preventing Violent Conflict Reviewed from Community Law & Good Governance. 2023. Hessica Hawana Gultom et al.¹² Of these studies, none have specifically examined the characteristics of Papua in the new format of Papua's special autonomy (Law Number 2 of 2021). Therefore, the purpose of this study is to analyze the Papuan special autonomy policy which began with Law Number 21 of 2001, as well as the latest developments in the regulation of special autonomy, including the revision of policies related to Papua Province through Law Number 2 of 2021. In addition, this article also links the concept of regional autonomy from the perspective of Islamic Law, by paying attention to the principles of regional independence and governance in accordance with Islamic law.

Discussion

Special Authority

Referring to the authority used in the regulation of Law Number 21 of 2001 in conjunction with Law Number 2 of 2021 has similarities with the meaning of authority translated as government affairs in Law Number 23 of 2014. Papua Province as one of the provinces with special status based on Law Number 21 of 2001 Chapter IV which regulates "Regional Authority" with an emphasis on authority in the provincial area, as regulated in Article 4. Based on the direction of Article 4, Papua Province implements it by drafting *Perdasi* and *Perdatus*, both those that are delegated explicitly and clearly, and those that are not delegated. Therefore, according to the provisions of Article 14 of Law Number 12 of 2011, regions can form *Perda* in the context of implementing regional autonomy and assistance tasks and accommodating special regional conditions and/or further elaboration of higher laws and regulations. This means that regions are given space to regulate according to their regional conditions, especially for Papua Province with special status.

¹⁰ Arya Fernandes, 'Implikasi Politik Dan Kebijakan Pasca UU Otsus Papua Jilid II', 2021, pp. 1–8.

¹¹ Hari Suriadi Suriadi and others, 'Optimalisasi Penggunaan Dana Otonomi Khusus Untuk Percepatan Pembangunan Di Provinsi Papua', *Menara Ilmu: Jurnal Penelitian Dan Kajian Ilmiah*, 18.2 (2024).

¹² Jhessica Hawana Gultom and others, 'Efektivitas Status Otonomi Khusus Di Provinsi Papua Guna Mencegah Konflik Kekerasan Ditinjau Dari Hukum Masyarakat & Good Governance', *Jurnal Hukum Malahayati*, 4.2 (2023), pp. 102–12.

Data shows that after the draft *Perdasi/Perdasus* was completed, it was rejected because it exceeded the provincial authority.¹³ Article 4 paragraph (1) of Law Number 21 of 2001, although it regulates that provincial authority covers all areas of government except central government authority, still limits this authority with the formulation "determined in accordance with statutory regulations". In the end, the way in which Papua Province implements the authority regulated in Article 4 is the same as the way in which other regions or provinces do not have certain characteristics.

Realizing this condition, through the new format of the Special Autonomy Law, the authority of the province and district/city is regulated in detail through PP Number 106 of 2021. As an illustration of the authority in the field of education, there has been a shift in the authority to manage community academies which was originally the authority of the center to the authority of the province. Likewise, the management of secondary education which was originally the authority of the province to the authority of the district/city.

Based on the description, it can be seen that the authority of the Papua Province seems different only at the normative level, at the implementation level it cannot be implemented, it remains the same as the implementation of authority in other provinces in Indonesia. The authority of the Papua Province with the addition of the word special behind it becomes special authority, it turns out that it does not immediately have the flexibility to translate government affairs that have been handed over.¹⁴ The transfer of government affairs as stated in the attachment to PP Number 106 of 2021 remains the authority of the central government. Papua Province must implement it according to the direction of the center.

Special Institutions

The existence of this special institution is based on the idea that with the principle of decentralization, regional government will emerge. The concept of regional government can have three meanings: 1) the term regional government refers to the existence of the DPRD and regional heads whose recruitment of officials is based on election/appointment; 2) regional government means regional government which is also implemented by the DPRD and regional heads (referring to function); and 3) Regional government is an autonomous region.¹⁵ Thus, it is only right that an autonomous region has a special regional institution, especially Papua Province as a region with special status. To see the extent of the specialness of institutions in Papua Province based on special autonomy,

¹³ Bayu Krisnapati, 'Desentralisasi Asimetris Dalam Negara Kesatuan Republik Indonesia', *Tesis Universitas Islam Indonesia*, 2012, p. 319.

¹⁴ Sinen, Ningrum, and Kabes, 'Strategi Pemerintah Dan Masyarakat Dalam Menjemput Daerah Otonomi Baru Papua Barat Daya Pemekaran Provinsi Papua Barat'.

¹⁵ Marpaung Lintje Anna, 'Politik Pemerintahan Daerah', 1, 2020, pp. 1–223.

especially the new format of special autonomy, it will be studied further, as follows:

Governor, Regional People's Representative Council (DPRP) and Papuan People's Assembly (MRP). The Governor, DPRP, and MRP are three institutions that have specialization at the provincial level. The Governor in Papua Province is different from the governors in other regions in Indonesia, namely only native Papuans and those with educational qualifications equivalent to Stara I can become governor of Papua, while in other regions in Indonesia to serve as governor does not have to be a native of the province concerned and their level of education is equivalent to secondary education.

DPRP or provincial DPRD in other regions, in addition to differences in nomenclature, also have differences in filling membership, namely if in other regions membership is only filled through general elections, then DPRP membership in addition to general elections also has DPRP members through the appointment route of $\frac{1}{4}$ of the total number of DPRP members from general elections. MRP only exists in Papua Province, not in other provinces in Indonesia. MRP is a cultural representation and has special authority, namely related to the protection and empowerment of Indigenous Papuans. The existence of MRP is expected to influence regional policies, so that it can lead to improving the welfare of Indigenous Papuans.

The three important institutions in the administration of government in Papua Province, from the formulation of norms, have special characteristics that are not possessed by other provinces in Indonesia, but in its implementation, these special characteristics have not been optimally implemented in accordance with the philosophy of their existence, namely in accordance with the background requirements attached to the governor and deputy governor are Indigenous Papuans and have a Bachelor's degree, $\frac{1}{4}$ of the DPRP membership is appointed from OAP elements, and the MRP, all of whose members are Indigenous Papuans, has not been able to work optimally in improving the welfare of the community, especially Indigenous Papuans.

Likewise, $\frac{1}{4}$ of the DPRP members through the appointment route, although given space to form a special group so that it seems to have a special position in the council structure, it is necessary to examine whether the existence of the special group will later be able to optimize the implementation of the DPRP's duties and authorities or actually increase the number rather than improve the quality of decisions. Therefore, the implementation of the special group's duties is not regulated in the new special autonomy format, its implementation is instead handed over to the provisions of generally applicable laws and regulations.

Regency/City Regional People's Representative Council (DPRK). The special institution of Papua Province through the new special autonomy format,

increased when Law Number 2 of 2021 was enacted, namely in regencies/cities there was an addition of $\frac{1}{4}$ seats in the Regency/City DPRD and at the same time its name was changed to the Regency/City Regional People's Representative Council (DPRK). The addition of $\frac{1}{4}$ seats through an appointment mechanism originating from Indigenous Papuans is expected to maintain the representation of Indigenous Papuans in DPRK membership due to indications of a decrease in Indigenous Papuans in DPRK membership, while at the same time being able to influence regional policies to be more in favor of Indigenous Papuans. This reality remains to be seen in its future development, whether the addition of DPRK member seats and the existence of this special group can improve or optimize the performance of the council, especially regarding policies that are oriented towards Indigenous Papuans. This is based on the idea that along with the increase in the number of DPRD membership by $\frac{1}{4}$ seats since the beginning of the old special autonomy format, it turned out that in its implementation there were many obstacles that could only be implemented effectively in 2014 through Perdasus Number 6 of 2014.

Regional Apparatus. The Papua Province's special institution through the new special autonomy format, as with the DPRK, also has regulations regarding the existence of special regional apparatus. The philosophy of forming regional apparatus in general is to design a regional government institutional organization that is responsive to the development of the times and the increasingly diverse demands of society. As an initial effort, an evaluation was carried out on the regional government institutions that have been used so far. However, it is very unfortunate that even though it refers to the new format of Papua's special autonomy, namely PP Number 106 of 2021, it does not regulate the determination of indicators and scoring calculations to determine whether a regional apparatus, unit, field, or section needs to be maintained, changed, or abolished. Not to mention at the implementation level, considerations for changing or abolishing a regional apparatus or even a field or part of a regional apparatus are not easy to change, because they are related to administrative, economic, and even political considerations.

In this context, it should be based on the principle of legal interpretation "Lex Specialis Derogat Legi Generali" which means that special laws override general laws, then based on this principle, the Papua Province has the authority to prepare a draft of the regional apparatus organization as a basis for the Papua Provincial Government to improve and enhance institutional performance in order to organize regional government effectively and efficiently.

PP Number 106 of 2021 Article 24 Papua Province has special characteristics in the arrangement of regional apparatus institutions, which are marked by the granting of authority to Papua Province to form other regional apparatus organizations. However, this is difficult to do because it is constrained by the formulation of the phrase behind the sentence, namely: ... which is formed

based on the provisions of laws and regulations. As is known, the provincial regional apparatus consists of: the provincial regional secretariat; DPRD secretariat; inspectorate; MRP secretariat; services; and agencies. Thus, when the Papua Provincial Government will form a regional apparatus, can it be added with a special pattern or character outside of what already exists in accordance with the provisions of laws and regulations.

The condition that occurs is when drafting the Regional Regulation on Provincial and Regency/City Regional Apparatus according to the mandate of PP Number 106 of 2021, it cannot form other regional apparatus organizations, outside the existing nomenclature. The Papua Provincial Government can only add ad hoc commissions under certain regional apparatus organizations. This means that the formulation of ideal norms in PP Number 106 of 2021 cannot be implemented in its implementation because it is constrained by generally applicable laws and regulations. Even though there is a principle of "*Lex Specialis Derogat Legi Generali*".

In this regard, the regent/mayor exercises government authority from two sources, namely: first, regional duties; second, general government duties; and second, duties delegated by the regent/mayor in the context of implementing regional autonomy. In addition to the existence of regional heads, regions as areas of government also have their own dilemmas, namely related to the formation (expansion) of Regency Regions which are increasing over time. Papua Province with a new special autonomy format seeks to organize district areas based on customs and agro-ecosystems.

The study and results of the study related to these two aspects are the initial requirements before fulfilling the requirements for the formation of other districts in accordance with the provisions of the laws and regulations. Other requirements in accordance with the provisions of the applicable laws and regulations are regulated differently in Perdasi Number 16 of 2023, specifically regulating the requirements for the village coverage area, namely only 7 (seven) villages for districts in the district area and 5 (five) districts for city areas. From the aspect of district arrangement, there is a nuance of specialization, but regarding the aspect of implementing district duties, it is still not optimal.

This is marked by a change in the nomenclature of the district head in the new special autonomy format, namely through PP Number 106 of 2021, the district head is referred to as the Regency Government and he can be given assistance tasks. However, once again in its implementation, this is difficult to do, because the regulations in PP Number 106 have not been completed, namely although in addition to the formulation of the phrase district government, it also mentions the district government, but it does not further regulate what is meant by the district government.

Therefore, the existence of the district remains positioned as a regional apparatus of the district/city placed in the district/city area. Although from the

philosophical aspect of the formation of the old format of special autonomy, the meaning of the district is desired as an administrative area. The existence of such a district position causes the provincial government to experience difficulties when assigning certain government affairs through the mechanism of assistance tasks to the district government. Finally, what can be done is through a general mechanism, namely through the district/city.

Special Finance

Special funding for Papua Province is carried out to support the acceleration of the implementation of special autonomy for Papua in order to realize justice, accelerate economic development, improve the welfare and progress of the Papuan people in the context of equality and balance with the progress of other provinces in Indonesia. In addition, Papua Province as a province that has special authority, especially for the protection and empowerment of Indigenous Papuans, it is important to have a source of income that is also special.

This special income is carried out through the old format of special autonomy, namely with the existence of special autonomy funds equivalent to 2% of the National General Allocation Fund (DAU) which is directly transferred from the state general treasury account to the provincial general treasury account. Furthermore, the province will distribute it to the districts/cities based on the formula previously regulated in the *Perdatus*. The next development of the receipt of these funds through the new format of special autonomy, namely Law Number 2 of 2021 and PP Number 2 of 2021 was changed to be equivalent to 2.25% of the National DAU.

The mechanism of the fund was then changed, from being fully handed over to the province to be regulated, to being fully regulated by the central government through PP Number 107 of 2021, PMK Number 76/PMK.07/2022 which was amended by PMK Number 18/PMK.07/2023 which was subsequently revoked by PMK Number 33 of 2024. Based on these provisions, the special autonomy fund equivalent to 2.25% of the National DAU is divided again into general revenue (block grant) equivalent to 1% of the National DAU ceiling and revenue whose use has been determined based on implementation performance (specific grant) of 1.25% of the National DAU ceiling. In addition to the allocation of funding, its allocation is also detailed according to its function, namely the receipt of special autonomy funds in the form of block grants, the allocation of which is limited, namely it is allocated for 1) development, maintenance, and provision of public services; 2) improving the welfare of Indigenous Papuans; and strengthening traditional institutions; and 3) other matters based on regional needs and priorities in accordance with the provisions of laws and regulations.

Likewise for the receipt of special autonomy funds in the form of specific grants, which are allocated for 1) at least 30% for education spending; 2) at least 20% for health spending; and community economic empowerment. The existence of regulations that have been specifically regulated makes regions less creative in organizing their households. This is not in accordance with the spirit of regional autonomy, namely the independence of regions to be creative in organizing and managing their household affairs. Regions always wait for instructions from the central government. Financial management has been regulated in such a way in an application system, namely SIPD which is managed by the Ministry of Home Affairs and the regional financial information system (SIKD) which is managed by the Ministry of Finance.

The centralized financial mechanism is very contrary to the principle of decentralization that was tried to be built through the old Papuan special autonomy which has been unknowingly penetrated by the new special autonomy format with a completely centralized system. The enthusiasm of the central government to improve the management of special autonomy funds because it is considered not optimal in answering Papua's problems, because the poverty rate is still high and others, does not solve the management problem, but instead creates regional dependence on the center.

The Concept of Regional Autonomy from the Perspective of Islamic Law

Regional government and the overall structure of the state reflect the principles of democracy that are firmly held by Islamic states.¹⁶ The characteristics of the government are independent and autonomous from the center to the farthest regions. In an Islamic state, a region is a regional government, and al-‘imārah is the position that manages the government. Therefore, the word “region” is often used for the region, as indicated by the terms “province”, “district”, “sub-district”, and “village” today. While al-‘imārāh is used for officials such as governors for provincial areas, mayors for municipalities (municipalities), and regents for regencies.

In this position, several terms are used to describe the rights and obligations held and borne by a regional head who leads his region. These terms are:

- a. "Al-'Āmil" which can almost be interpreted as "employee" (working for the region),
- b. "Al-Walī" which can almost be interpreted as "regional head" (has his own responsibilities).
- c. "Al-Amīr" which can be interpreted as "head of an autonomous region" (has his own position),
- d. "Al-Sultān" which can be interpreted as "head of state" (his region is a country in an Islamic State).

¹⁶ Hotmatua Paralihan, 'Islam Dan Demokrasi', *Aqlania*, 10.1 (2019), p. 63.

From these terms, the caliphate was established as the head of the Islamic state whose power covers the entire territory of the country. That is a brief description of the terms used by Islamic countries in organizing regional government. The use of several terms for regional heads at various levels, describes the content of autonomy and democratic rights, the status of regional government. The levels of office, from al-'amīl to al-walī, al-amīr, and al-Sulātn, such as the levels of village head, regent, and governor who have their respective areas of authority, but these levels are closely related to the content of the autonomy granted.

The territory of the Islamic state led by "al-imarāh" is divided into two parts, namely:

Al-Wilāyah al-Khāṣah. This territory is led by "al-imarāh" and led by a leader called "al-'āmīl". This territory does not have the right to autonomy, does not have ūlī al-amri for its territory, and does not have the right to organize its own government, either through institutions or individuals. In an Islamic state, the "collegial" system is always used to lead administrative areas; this means that the leader must consist of several individuals who must work together and be directly responsible to the central government. Therefore, because there is no representative council, the principle of deliberation still applies even though the principle of "ūlī al-amri" cannot be applied.

Al-Wilāyah al-‘Āmmah. Al-Wilāyah al-‘Āmmah is under the government called "al-imārah al-‘āmmah", which is a regional autonomous government that has the authority to act independently. In this region, there is a complete government, effective deliberation, and ūlī al-amri, which is the core of Islamic democracy. In addition to the regional head, there are people's representatives who regulate and manage the affairs of their region and have the right to issue regulations that do not conflict with central regulations and laws. In accordance with the level of autonomy of each region, the regional head is called "al-walī", "al-amīr", or "al-sultan".¹⁷

Only Madinah al-Munawwarah, the capital of the country, was an autonomous region with a mayor called "al-amīr". Abu Dujanah as-Saidi bin "Urfathah" once served as mayor. In this region, the principles of deliberation and ūlī al-amri were fully implemented, and there was a complete system of representation and government. The foundations of democracy developed rapidly. Al-imārah al-‘āmmah turned into a complete autonomous region from al-imārah al-khāṣah, which was still an administrative region with a representative council. This region already had state power bodies and had certain areas called "al-‘āmmah", which were headed by "al-walī" as the head of the region. there are basic principles in it that Support Autonomy Al-‘Adl (Justice): Islam emphasizes

¹⁷ Ismira, 'Konsep Otonomi Daerah Dalam Perspektif Hukum Islam', 2017, pp. 8–9.

justice in the management of territory. Regional autonomy can be a means to meet local needs fairly, *Asy-Shura* (Deliberation): Decisions involving local community participation according to the principles of *shura*, *Al-Maslahah* (Public Interest): Autonomy can be justified if it brings benefits, such as government efficiency and community empowerment, *Al-‘Urf* (Customs): Islam respects local traditions as long as they do not conflict with *sharia*.

During the time of the Prophet Muhammad, the territory of the Islamic state was divided into 10 administrative regions; during the time of the caliph Abu Bakar, it increased to 12 administrative regions; and during the time of the caliph Umar bin Khattab, the number was reduced, but with broader content, namely autonomous regions that have complete power apparatus. Starting from the collegial *al-imārah al-khāṣah*, it developed into the region of "*al-‘āmmah* which has the right to autonomy and the right to determine regulations". Therefore, according to the author, regional autonomy based on the perspective of Islamic law states that, Special regional autonomy in Islam is permitted as a means of achieving public welfare and social justice, as long as it accommodates local uniqueness that is in line with Islamic values. regional governments need to consider the relationship between government structures and between regional governments, potential, and diversity, if they want to increase the effectiveness and efficiency of the implementation of regional autonomy. The aspect of the relationship of authority takes into account that each region has uniqueness and differences in the structure of the Unitary State of the Republic of Indonesia. All aspects of the relationship between finance and public services, as well as the use of natural resources and others, are implemented fairly and harmoniously.

Conclusion

The uniqueness of Papua Province in the new format of Papua's special autonomy is only found in the institutional aspect, especially related to the flexibility to add new organizational units at the provincial level, but its position is only under the regional apparatus. Likewise, there is a district arrangement which in several aspects is special, namely in the requirements for the formation of a district, namely having to conduct an initial study of customs and agro-ecosystems in the district area and the requirements for coverage of the area, namely villages under the new district area. Meanwhile, for the authority and financial aspects, it is only distinguished from the special regulatory aspects, but in its implementation it is no different from other provinces in Indonesia. Therefore, according to the author, regional autonomy based on the perspective of Islamic law states that regional governments need to consider the relationship between government structures and between regional governments, potential, and diversity, if they want to increase the effectiveness and efficiency of the implementation of regional autonomy. The aspect of the authority relationship takes into account that each region is unique and different in the structure of the

Unitary State of the Republic of Indonesia. All aspects of the relationship between finance and public services, as well as the utilization of natural resources and others, are implemented fairly and harmoniously.

References

- Djohan, Djohermansyah, 'Fenomena Etnosentrisme Dalam Penyelenggaraan Otonomi Daerah', *Desentralisasi Dan Otonomi Daerah: Desentralisasi, Demokratisasi & Akuntabilitas Pemerintahan Daerah*, 2005, p. 209
- Fernandes, Arya, 'Implikasi Politik Dan Kebijakan Pasca UU Otsus Papua Jilid II', 2021, pp. 1–8
- Gultom, Jhessica Hawana, Dieva Ahmad Ahmad Habibie, Siti Soraya Sadjeli, Amelia Putri, Kirana Ardhelia Putri, and Mulyadi Mulyadi, 'Efektivitas Status Otonomi Khusus Di Provinsi Papua Guna Mencegah Konflik Kekerasan Ditinjau Dari Hukum Masyarakat & Good Governance', *Jurnal Hukum Malabayati*, 4.2 (2023), pp. 102–12
- Huda, Ni'matul, *Hukum Pemerintahan Daerah* (Nusa Media, 2019)
- Indonesia, Pemerintah Republik, and Perubahan Kedua Atas, 'Undang-Undang Nomor 21 Tahun 2001 Tentang Otonomi Khusus Bagi Provinsi Papua', *Lembaran Negara Republik Indonesia Tahun*, 2001
- Ismira, 'Konsep Otonomi Daerah Dalam Perspektif Hukum Islam', 2017, pp. 8–9
- Krisnapati, Bayu, 'Desentralisasi Asimetris Dalam Negara Kesatuan Republik Indonesia', *Tesis Universitas Islam Indonesia*, 2012, p. 319
- Kurniadi, Bayu Dardias, 'Desentralisasi Asimetris Di Indonesia', *Politik Dan Pemerintahan*, 2012, pp. 1–11
- Marpaung Lintje Anna, 'Politik Pemerintahan Daerah', 1, 2020, pp. 1–223
- Maulana, Arief, 'Faktor-Faktor Pembentukan Daerah Otonomi Baru Dan Dampaknya Terhadap Keuangan Negara', *Ekuitas: Jurnal Pendidikan Ekonomi*, 7.2 (2019), pp. 53–67
- Okparizan, Okparizan, and Doni Septian, 'Kewenangan Kelurahan Pasca Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah', *KEMUDI: Jurnal Ilmu Pemerintahan*, 1.2 (2017), pp. 51–74
- Paendong, Ofelia Maria, Flora Pricilla Kalalo, and Michael G. Nainggolan, 'Kedudukan Dan Kewenangan Pemerintah Pusat Terhadap Otonomi Khusus Provinsi Papua Menurut UU No. 2 Tahun 2021 Tentang Perubahan Kedua Atas UU No. 21 Tahun 2001 Tentang Otonomi Khusus Bagi Provinsi Papua', *Lex Privatum*, 10.1 (2022), pp. 1–40

- <<https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/40372>>
- Paralihan, Hotmatua, 'Islam Dan Demokrasi', *Aqlania*, 10.1 (2019), p. 63
- Prajudi, Atmosudirjo, 'Hukum Administrasi Negara', *Edisi Revisi Ilmu Administrasi*, (Ghalia, Jakarta 1995), 1994
- Sinen, Karmila, Aulia Sasmitha Ningrum, and Oktoviana Angela Kabes, 'Strategi Pemerintah Dan Masyarakat Dalam Menjemput Daerah Otonomi Baru Papua Barat Daya Pemekaran Provinsi Papua Barat', *JISIP UNJA (Jurnal Ilmu Sosial Ilmu Politik Universitas Jambi)*, 2022, pp. 45–54
- Suriadi, Hari Suriadi, Aldri Frinaldi, Nora Eka Putri, Asnil Asnil, and Willy Nofranita, 'Optimalisasi Penggunaan Dana Otonomi Khusus Untuk Percepatan Pembangunan Di Provinsi Papua', *Menara Ilmu: Jurnal Penelitian Dan Kajian Ilmiah*, 18.2 (2024)
- Zorzetto, Silvia, 'Lex Specialis Principle', *Encyclopedia of the Philosophy of Law and Social Philosophy*. Springer, Dordrecht. Disponible En [Https://Doi.Org/10.1007/978-94-007-6730-0_1127-1](https://doi.org/10.1007/978-94-007-6730-0_1127-1), 2023