

Transformation Of Legal Policy Towards the Employment and Labour of Indigenous Papuans in The Era of Special Autonomy

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Abstract

This research investigates the legal policies adopted by the West Papua Provincial Government to protect and empower the labour of Indigenous Papuans (Orang Asli Papua, OAP) within the framework of Papua's Special Autonomy. Utilizing a normative juridical approach with qualitative analysis, the study examines existing legislation, local government policies, and their implementation to evaluate their effectiveness in safeguarding labour rights and enhancing OAP welfare. Despite the intention behind Special Autonomy to address historical inequalities through decentralization and economic development, findings reveal that the policies have not fully achieved their goals. Challenges such as inadequate training programs, limited job opportunities, and insufficient protection of labour rights hinder the effectiveness of these policies. Moreover, poor policy adjustments and inter-agency coordination exacerbate socio-economic disparities. The research suggests a need for more responsive, culturally tailored policies and improved governmental coordination to better meet the specific needs of OAP. By providing a detailed analysis of the policies' implementation and its shortcomings, this study offers valuable insights into the complexities of supporting Indigenous labour within a special administrative context and emphasizes the importance of targeted policy interventions and enhanced oversight.

Keywords: Legal Policy, Workers, Employment, Indigenous Papuans, Special Autonomy for Papua

INTRODUCTION

Indonesia is a country that has tremendous diversity in terms of religion, language, culture, customs, and ethnicity. This diversity makes Indonesia a heterogeneous nation with differences in various aspects of the lives of its citizens. However, this diversity is united by the motto *Bhinneka Tunggal Ika*, which means "although different, but still one." This motto emphasises that the differences that exist actually become the strength and uniqueness of the Indonesian nation.

Law Number 21 of 2001, which was later amended to Law Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province, is still experiencing dynamics in various aspects of Papuan life, especially for Indigenous Papuans (OAP). The right to special autonomy, which actually provides flexibility and independence for the Papua Province to aspire and channel their interests, has in fact not been fully accommodated by the state. This is reflected in the actions of the Papuan People's Assembly (MRP) who challenged the revision of Law Number 2 of 2021. They highlighted the provisions in Article 6 paragraph (2), Article 6A, Article 28, Article 38, Article 59 paragraph (3), Article 68A, Article 76, and Article 77, which are considered to violate their constitutional rights as indigenous peoples.

State recognition of indigenous peoples is an obligation reflected in Article 18 of the 1945 Constitution of the Republic of Indonesia. This form of recognition is then manifested through the granting of special autonomy rights as a form of asymmetrical decentralisation, which aims to support the role and involvement of indigenous peoples in government structures. However, despite efforts to grant special autonomy, the implementation and realisation of these rights still faces various challenges, indicating that existing policies have not been fully effective in meeting the needs and aspirations of the OAP community.

The formation of new autonomous regions, or regional expansion, is a topic that always attracts attention and is often discussed in various media, including mass, electronic and print media. This issue has attracted widespread attention, ranging from academics, practitioners, to politicians. Since the reform era in 1998, demands for regional expansion in Indonesia have continued and even shown an increase every year. These

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demands reflect the desire of various regions to gain greater autonomy in managing their own governance and resources, with the hope of improving the welfare of local communities.

New Autonomous Region Expansion as stipulated in Article 33 Paragraph (1) of Law No. 23 Year 2014 on Regional Government, explains that regional expansion is the division of a province or regency/city into two or more new regions or the merger of parts of adjacent regions within one province into one new region. The purpose of regional autonomy itself is stated in Law No. 23 of 2014 concerning Regional Government Article 1 Paragraph (6), which states that "the purpose of regional autonomy is to exercise autonomy as broadly as possible, except for government affairs, with the aim of improving community welfare, public services, and regional competitiveness".

In 2022, Papua experienced regional expansion, which resulted in four new provinces, previously, there were only two provinces, namely Papua province as the parent with the capital in Jayapura and the first division of West Papua province, then increased to four new provinces, consisting of South Papua province with the capital in Merauke city, Central Papua province with the capital in Nabire City, Papua Mountain Province with the capital in Jayawijaya Regency, and Southwest Papua province with the capital in Sorong City.

Regional expansion in West Papua can create new jobs in various sectors such as government, infrastructure, education, and health. With the provisions in Article 76 Paragraph (4), the new regions resulting from expansion are required to give priority to native Papuans in filling these positions. This opens up wider employment opportunities for native Papuans and helps to reduce the unemployment rate.

Affirmative policies in labour recruitment should be implemented to ensure that OAPs get fair and equal access to employment opportunities. This could take the form of special quotas or priorities for OAPs in the selection of civil servants or workers in the private sector operating in the expansion areas.

METHODOLOGY

The research method used in this study is a qualitative method with a legal document analysis and content analysis approach. This research begins by studying Law Number 2 of 2021 concerning Special Autonomy for Papua Province to understand in depth the provisions relating to the protection and empowerment of Papuan labour in the context of regional expansion.

After that, the articles relevant to the protection and empowerment of Papuan labour are analysed. Other relevant documents were also analysed, such as local government policies and reports related to the implementation of the Act.

RESULTS AND DISCUSSIONS

Roles and Responsibilities of the West Papua Provincial Government in Optimising the Protection and Empowerment of OAP Workers in accordance with the Provisions of Papua Special Autonomy

The West Papua Provincial Government has a significant role and responsibility in optimising the protection and empowerment of the indigenous Papuan (OAP) workforce in accordance with the provisions of Papua Special Autonomy. In accordance with Law Number 21 of 2001 which has been amended into Law Number 2 of 2021, local governments are given broad authority to regulate and manage their own government affairs in accordance with the aspirations and needs of local communities, including special rights for OAP.

The provincial government must formulate policies and regulations that support the protection of the labour rights of native Papuans, including access to employment, fair working conditions, and opportunities to improve skills. These policies should be based on the principles of equality, fairness and non-discrimination.

In order to realise the welfare of the people, provide work and livelihood for the people, provide decent work and livelihood, encourage labour productivity according to their talents and abilities and provide protection to workers in West Papua, it is necessary to regulate the implementation of Manpower in West Papua Province.

The provisions contained in Article 3 and Article 14 of the Regional Regulation of West Papua Province Number 6 of 2022 concerning the Implementation of Manpower in West Papua Province have significant implications for the protection and empowerment of Indigenous Papuan (OAP) labour.

Article 3 stipulates that every native worker, whether competent or not, has the right to:

Have equal opportunity without discrimination to obtain employment in West Papua Province.

Receive equal treatment without discrimination from employers.

This article affirms the principle of non-discrimination against OAP labour in the recruitment process and treatment in the workplace. It aims to ensure that OAPs have equal opportunities with non-OAPs in access to employment and are not discriminated against in terms of employment rights.

Article 14 (1) stipulates that all fields of employment in the territory of West Papua Province must prioritise OAP with the following composition:

OAP labour by 80% (eighty percent).

Local Labour by 20% (twenty percent).

This article sets a minimum quota of 80% for the recruitment of OAP labour in all fields of work in West Papua Province. This demonstrates a commitment to empowering OAPs in the local economy and reducing employment disparities between OAPs and non-OAPs.

The article also takes into account the Local Labour Force (TKL) of 20%, which can be considered an effort to ensure that West Papuans as a whole also have access to employment opportunities. This provision clearly provides special protection and priority for native Papuan workers in obtaining employment in West Papua Province.

The implementation of such provisions can help improve the welfare and economic empowerment of OAP, as well as reduce socio-economic disparities between OAP and non-OAP. However, implementation of the 80% quota for OAP may require a well-thought-out strategy in terms of skills training and capacity building to enable OAP to meet labour market needs and contribute effectively to regional economic development. Thus, these two provisions are proactive steps in supporting the protection and empowerment of the native Papuan workforce in West Papua Province. However, their implementation must be done carefully to ensure that the goals of protection and empowerment are achieved without creating unintended discrimination or imbalances in the labour market.

Article 6 and Article 7 of the West Papua Provincial Regulation No. 6 of 2022 on the Implementation of Manpower in West Papua Provinces provides guidance on regional manpower planning and information systems. Specifically, Article 6 emphasises the importance of OAP and local workforce planning being integrated with national workforce planning. This aims to ensure that workforce planning in West Papua Province is in line with national policies and accommodates local needs. In addition, it is important to integrate local labour planning in regional development planning documents. This shows that the labour aspect is an integral part of the overall regional development planning. Meanwhile, in Article 7, OAP and local workforce planning is prepared based on the regional manpower information system. This article emphasises the importance of the regional manpower information system as the basis for OAP and local manpower planning. This suggests that labour planning policies should be based on accurate and up-to-date data. The intended information should be covered in the regional labour information system. This suggests that comprehensive information on labour is essential to support effective planning and decision-making at the local level. The regulation and implementation of the regional labour information system may be further regulated by a regulation stipulated by the Governor of West Papua Province.

Empowerment of the OAP workforce requires capacity building through vocational training and education programmes that are relevant to labour market needs. The provincial government is responsible for providing and facilitating access to these programmes, in collaboration with education and training institutions.

In relation to job training for Indigenous Papuans (OAP) and local labour, it shows a commitment to improving the skills and competencies of the workforce in West Papua Province, also regulated in Articles 8 to 17 of the West Papua Provincial Regulation Number 6 of 2022. For this reason, the local government of West Papua Province can take several steps to implement these provisions, namely:

Preparation of a comprehensive labour training plan that is integrated with regional development planning. The plan must take into account labour market needs and refer to relevant work competency standards;

Organising vocational training covering various fields in accordance with local and national labour market needs. Such training may be organised by government, private, or company vocational training institutions;

Facilitate access of OAP and local labour to quality vocational training. This can be done through providing information on available training, providing funding or scholarships for those in need, and facilitating transport or accommodation if needed;

Collaborate with vocational training institutions, companies and other relevant institutions to organise effective vocational training that is relevant to labour market needs. This cooperation may include the development of training curricula, provision of training facilities, and job placement for training graduates;

Local governments should regularly monitor and evaluate their vocational training programmes to ensure that they are effective and provide maximum benefit to participants. This evaluation may include assessments of the quality of training, participation rates, job placement rates, and the socio-economic impact on participants;

Encourage OAP and local labour to obtain certification of occupational competence following training. This certification can help increase the credibility and competitiveness of the workforce in the local and national labour market.

The provincial government should create a conducive investment and economic climate to open up more job opportunities for native Papuans. This includes encouraging potential industrial sectors and developing entrepreneurship programmes for native Papuans.

By 2023, there are a range of key industry sectors that contribute significantly to West Papua's economy, including agriculture, forestry, fisheries, mining, quarrying, wholesale and retail trade, and government administration. Data shows that these sectors are experiencing positive growth. In terms of investment, there are 412 companies investing in West Papua as of 2023. These investments cover a wide range of industrial sectors, with the main sectors including mining and quarrying, which is one of the main contributors to the region's GRDP. However, the employment of indigenous Papuans (OAP) in West Papua remains a challenge despite regulations that prioritise the recruitment of indigenous Papuans. Based on various reports and research, the absorption of OAP in the formal and informal sectors is still relatively low compared to non-OAP labour. Some barriers include a lack of skills and education that match industry needs, as well as limited infrastructure and accessibility in remote areas. The government and various agencies continue to work on improving the capacity and skills of OAP through training and empowerment programmes.

In order to develop skills needed in certain fields, such as technical skills, communication, leadership, and time management, it is also necessary to pay attention to the implementation of apprenticeships as also regulated in the Regional Regulation of West Papua Province Number 6 of 2022, in Article 18 to Article 21.

To improve the effectiveness and relevance of vocational training and apprenticeship programmes, local governments can take several steps:

Local governments should actively manage and foster vocational training and apprenticeship programmes to ensure their quality is in line with local and global labour market needs;

Cooperation with the private sector is important to ensure that training programmes produce a workforce that meets the needs of industry;

Tailor training programmes to local and global labour market needs. This includes integrating skills needed in the digital economy and new industries;

Integrate technology in training to ensure participants have relevant skills in a changing world of work;

Local governments need to continuously monitor and evaluate the effectiveness of training programmes to ensure that they achieve their objectives and deliver the desired benefits to participants and society as a whole;

Encourage the development of professional certification bodies that can provide nationally and internationally recognised competency certification. Provisions related to the placement of labour

Provisions related to the placement of workers, with a focus on workers with disabilities (OAP), local workers, as well as aspects such as the implementation of placement, job search, and protection of labour rights have been contained in Article 22 to Article 30 of the West Papua Provincial Regulation Number 6 of 2022, but there are several factors or obstacles faced by the Provincial Government in the implementation of these regulations, among others:

Local governments face limited human and financial resources in carrying out recording, registration, dissemination, and placement of labour, especially for workers with disabilities;

Persons with disabilities may face access barriers to the same information and employment opportunities as non-disabled persons. This requires additional efforts in providing accessibility to information and appropriate training;

Not all employers or companies may have sufficient awareness or acceptance of persons with disabilities. This can be an obstacle in hiring them and fulfilling the set quota;

Providing specialised training and placement programmes for persons with disabilities may require significant budget allocations.

Protection of OAP labour includes strict enforcement of laws against violations of workers' rights. The provincial government should ensure effective monitoring and enforcement mechanisms are in place to address issues such as unfair wages, poor working conditions, and discrimination in the workplace.

Legal protection for Indigenous Papuan (OAP) labour in West Papua includes various initiatives and policies geared towards ensuring the rights of OAP labour are respected, protected and fulfilled. These measures include the establishment and implementation of local regulations aimed at protecting the rights of native Papuan workers, including regulations governing working conditions, minimum wages, and social security. These bylaws also include provisions that require companies to provide training and skills development for OAPs.

Legal protection for Indigenous Papuan (OAP) labour in West Papua in the context of the Job Creation law faces several challenges and opportunities. Law Number 11 of 2020 on Job Creation aims to create jobs and increase investment, amending various provisions in the labour sector, including regarding minimum wages, employment agreements, and dismissal of labour. Challenges include that many native Papuans do not have the necessary skills and education to compete in the formal labour market expanded by the Job Creation Law and that the effective implementation of the Job Creation Law in West Papua requires strong law enforcement and intensive monitoring to ensure that the rights of native Papuans are protected.

Challenges and Obstacles Faced in the Implementation of Legal Policies Related to the Protection and Empowerment of OAP Labour in West Papua

The implementation of legal policies related to the protection and empowerment of Indigenous Papuan (OAP) labour in West Papua can face several complex challenges and obstacles.

West Papua, like other regions in Papua, has challenges in terms of limited infrastructure and difficult accessibility. This can hinder the distribution of regulations or legal services needed to protect and empower native Papuans.

In West Papua, the challenges of limited infrastructure and difficult accessibility have a significant impact on the implementation of legal policies that focus on the protection and empowerment of Indigenous Papuan (OAP) labour. Amidst the expanse of wilderness that covers much of the region, limited transport links are often a major obstacle.

In this context, efforts to improve transport and communications infrastructure are critical. Better roads, improved internet access and telecommunications development can help support the distribution of laws and services needed to support the protection and empowerment of OAP. In addition, training and capacity building for local law officers and civil society in these areas is also crucial to improve understanding and compliance with applicable laws.

The lack of a trained workforce, particularly in the fields of law and social services, is a serious obstacle to the implementation of policies to protect Indigenous Papuan (OAP) labour in West Papua. Amidst the legal complexities involved in protecting their rights, there are legal specialists who understand the cultural and social context.

This condition also affects the availability of supportive social services, such as health, education and social work services. The lack of trained labour in these areas means that OAP communities often do not have adequate access to these services, which directly affects their quality of life.

Addressing this challenge requires significant investment in the training and development of the local workforce in West Papua, particularly those with knowledge and experience in law, social services and humanitarian work. This includes better education programmes, ongoing professional training, and incentives and support to attract talented people to these fields.

In West Papua, a rich local culture and a strong customary law system play an important role in people's lives. These customary legal systems have become an integral part of daily life and governance in various indigenous peoples' communities in the region. When designing and implementing labour protection policies for OAP, it is important to carefully consider these unique local cultures and social structures.

Concrete steps include involving indigenous and community leaders in the policy formulation process, listening to their aspirations and needs, and building strong partnerships between government, civil society and the private sector to support effective policy implementation.

High levels of unemployment and poverty among Indigenous Papuan (OAP) communities in West Papua are serious obstacles to achieving economic empowerment goals. These difficult economic conditions not only affect their material well-being, but also directly affect the implementation of labour protection and empowerment policies in the region.

Despite the abundance of natural resources, many OAP communities still face challenges in accessing decent, high-income employment. Factors such as educational limitations, lack of skills that match labour market demands, and limited infrastructure exacerbate this situation.

Concrete steps that can be taken include investment in education and skills training relevant to market demand, development of supportive infrastructure, such as roads, electricity and internet access, as well as economic empowerment programmes specifically designed to increase the capacity and economic independence of OAP communities.

Effective coordination between local government, the private sector, and civil society is essential in implementing labour protection policies in West Papua. Without good coordination, efforts to address the challenges faced by the OAP community in terms of labour protection may be hampered or even ineffective.

Local governments have a key role in designing, adopting and implementing labour protection policies. They are responsible for providing appropriate regulations, resources, and institutional support to back the

implementation of these policies. However, without involving the private sector, which often has a major influence on working conditions and the sustainability of local economies, policy implementation can face difficulties in achieving significant impact.

Through solid cooperation and effective coordination between these three sectors, different perspectives and resources can be combined to address the complex challenges of protecting and empowering the OAP workforce in West Papua. Thus, efforts to achieve labour protection goals can run smoother, more efficiently, and provide greater benefits to the expected communities.

CONCLUSION

The West Papua Provincial Government, through Regional Regulation No. 6 of 2022, is committed to protecting and empowering Indigenous Papuan (OAP) labour with the principle of non-discrimination and sets a minimum recruitment quota of 80% for OAP in all fields of work. This measure aims to reduce socio-economic disparities and improve access and quality of employment for OAPs. The government also promotes integrated workforce planning and comprehensive job training programmes to upskill the workforce, while ensuring effective monitoring and enforcement to protect the rights of native workers. Effective coordination between local government, the private sector and civil society is key to a successful policy for the protection of indigenous Papuan labour in West Papua. A holistic approach that takes into account legal aspects, economic empowerment, and sensitivity to local culture is essential. The active role of civil society in monitoring and fighting for labour rights is also crucial for the successful implementation of inclusive and sustainable policies. Improve coordination between provincial and district governments, the private sector, and civil society to strengthen policy implementation for OAP.

Invest in training for legal and social service officers to effectively implement policies. Consider local culture and customary law in designing policies with a collaborative approach. Establish a monitoring system for the implementation of the 80% quota for indigenous peoples and training programmes, and evaluate the socio-economic impact of the policy. Create a favourable investment climate with incentives for companies and development of the local industrial sector. Implement a well-integrated labour information system for workforce planning.

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