

Politics of Law in Qanun Reformulation in Aceh: The Establishment of Wali Nanggroe Institution

Delfi Suganda^{1a}, Retno Saraswati^b, Nabitatus Sa'adah^c
^aUIN Ar-Raniry, ^b Universitas Diponegoro, ^cUniversitas Diponegoro,
Indonesia

Abstract

The Wali Nanggroe Institution is an authoritative religious local institution in Aceh, Indonesia. This Institution was found as a mandate from the Helsinki MoU and it was stated into Law No. 11 of 2006 concerning Aceh Governance which was later translated into Qanun No. 8 of 2012 concerning the Wali Nanggroe Institution. The establishment of Wali Nanggroe Institution brought some controversial issues in constitutional law in Indonesia, one of which is the requirement to become the institutional leader of Wali Nanggroe as regulated in the Qanun of the Wali Nanggroe Institution. This article will focus on the reformulation of the Qanun of the Wali Nanggroe Institution in Aceh by looking at political and legal aspects. This article is qualitative research with a non-doctrinal legal approach. The finding of this article indicates that the Qanun of the Wali Nanggroe Institution has been renewed twice. Nevertheless, there has been no significant renewal in the field of requirements to become an institutional leader of Wali Nanggroe. Summing up, this article reveals that the subordinates of the reform have not touched on substantive matters relating to the public interest, resulting in the absence of legal certainty for the people of Aceh.

Keywords: Politics of Law, Qanun in Aceh, Wali Nanggroe Institution

¹ Corresponding Author, Email: delfi.suganda@ar-raniry.ac.id

Introduction

This article discusses more the *Qanun* for the establishment of the *Wali Nanggroe* Institution in Aceh. Aceh *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution is a derivative and mandate of efforts to realize peace between the Indonesian government and the Free Aceh Movement. There are several problems in the *Qanun* which are crucial points for the realization of peace in Aceh.

On the one hand, the *Qanun* that regulates the *Wali Nanggroe* Institution aims to show harmonization between the central government and the Aceh government, on the other hand, the *Qanun* on the *Wali Nanggroe* institution seems inhumane with the conditions that exist in Aceh after social disasters (conflicts) and after natural disasters (earthquakes and earthquakes). Aceh tsunami). Not humanist means that there are still groups who reject the existence of this institution.

The problem point of the rejection of this institution is the authority given to the *Wali Nanggroe* which is considered to be so large and the efforts to co-opt the privileged institutions that exist in Aceh. This article will use legal politics as a tool to describe the problems mentioned above. Political law itself is the government's policy to use or replace a regulation to realize the goals of the government, either at the national level or at the local government level.

After the signing of the Helsinki MoU between the Free Aceh Movement (GAM) and the Government of Indonesia in Augustus 2005 in Finlandia, the province of Aceh was given wider authority by the Indonesian government.

This authority is part of the memorandum of understanding of the Helsinki MoU which is then poured into law, namely Law Number 11 of 2006 concerning Aceh Governance. One of the points of authority in the Helsinki MoU is the establishment of the *Wali Nanggroe* Institution

as regulated in point 1.1.7.² Which is then poured into statutory regulations.³

Wali Nanggroe Institution is different from *Wali Nanggroe*⁴ so that it can be interpreted that the *Wali Nanggroe* institution is an institution to carry out the institutional activities of the institution, while *Wali Nanggroe* is the leader of the institution who may have certain interests attached to it and must meet certain conditions to become *Wali Nanggroe*, what is very clear is that *Wali Nanggroe* has a role as an actor in the context of governance in Aceh.

Some of the requirements to become *Wali Nanggroe* have been determined by the Aceh government, which have been regulated in Aceh *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution. The requirements have been stipulated in Article 69 point c that the *Wali Nanggroe* candidate "can speak Aceh fluently and well".

The requirements stipulated in *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution are not by the conditions of the diversity of ethnicities, religions, and various languages in Aceh, so that it has an impact on uncertainty for communities or ethnic groups of people who do not use the Aceh language in daily life. As the language of everyday communication when running for *Wali Nanggroe*.

² MoU Helsinki, "Memorandum of Understanding Between The Government Of The Republic Of Indonesia And The Free Aceh Movement," 2005, <https://www.dfat.gov.au/sites/default/files/mou-indonesia-australia-cyber-cooperation.pdf>; MoU Helsinki, "Nota Kesepahaman Antara Pemerintah Republik Indonesia Dan Gerakan Aceh Merdeka," 2005.

³ Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh," 2006.

⁴ "Qanun Nomor 8 Tahun 2012 Tentang Lembaga Wali Nanggroe," n.d.; "Qanun Aceh Nomor 9 Tahun 2013 Tentang Perubahan Atas Qanun Nomor 8 Tahun 2012 Tentang Lembaga Wali Nanggroe," n.d.

In the aspect of statutory regulations, the principle of justice is the most important part because every material contained in the legislation must reflect justice proportionally for every citizen,⁵ and the same thing is emphasized at the local regulatory scale that the material for the formation of *Qanuns* in Aceh must contain the principle of justice.⁶

There is an imbalance between *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution and the reality of diversity which has created reactions in the community, one of the groups that rejected it was the Gayo Merdeka group, which stated that the *Qanun* of the Wali Nanggroe Institution (QLWN) was not for the benefit of the Acehnese people, but in the interests of the Aceh Party (PA), Gayo Merdeka further emphasized that the *Wali Nanggroe* Institutional *Qanun* could not represent all ethnic groups in Acehnese⁷ Gayo Merdeka activists urged that the *Qanun* of the Wali Nanggroe Institute be dissolved immediately if it was not dissolved then just let Gayo become Aceh Leuser Antara Province (ALA).⁸

Rejection of *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution also came from Aceh Barat Selatan (ABAS). *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution is full of specific and discriminatory interests. This discriminatory affirmation is contained in Article 69 letter c, which stipulates the requirements for being able to speak Aceh well and

⁵ “Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan,” n.d.

⁶ “Qanun Nomor 5 Tahun 2011 Tentang Tatacara Pembentukan Qanun,” n.d.

⁷ M Aris Yunandar, Effendi Hasan, and Taufik Abdullah, “Pro Kontra Lembaga Wali Nanggroe Dan Potensinya Terhadap Konflik Disintegrasi Suku Di Aceh,” in *Seminar Nasional Riset Inovatif II*, 2014. 869

⁸ Tempo.co, “Aktivis Gayo Merdeka Tetap Tolak Wali Nanggroe - Nasional Tempo.Co,” 2013, <https://nasional.tempo.co/read/537671/aktivis-gayo-merdeka-tetap-tolak-wali-nanggroe>.

fluently. If this *Qanun* is still passed, ABAS will still demand to separate itself from the province of Aceh.⁹

The impact of rejection by community groups against *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution has an impact on the evaluation of *Qanuns* by the Ministry of Home Affairs (Kemendagri).¹⁰ The Minister of Home Affairs also conveyed that *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution also contradicts a higher law.¹¹

The results of the evaluation by the Ministry of Home Affairs spawned a newly legal product in Aceh, namely *Qanun* Number 9 of 2013 concerning Amendments to *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution. The evaluation carried out by the Ministry of Home Affairs did not touch on the article requirements to become *Wali Nanggroe* in Aceh, the requirement to become a leader in government institutions is a basic right of every citizen. Without changing the contents of article 69 point c, it becomes an interesting problem to study regarding the policy formulation for reforming *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution in Aceh.

This research is qualitative research¹² using the post-positive paradigm¹³ which includes three elements of

⁹ Serambinews.com, "Giliran ABAS Tolak Qanun Wali Nanggroe," 2012, <https://aceh.tribunnews.com/2012/11/16/giliran-abas-tolak-qanun-wali-nanggroe>.

¹⁰ Bakri (Ed), "KEMENTERIAN DALAM NEGERI R.I," 2013, <https://www.kemendagri.go.id/berita/baca/11673/qanun-wali-nanggroe-inti-koreksian-mendagri>.

¹¹ Tribunnews.com, "Mendagri: Qanun Wali Nanggroe Langgar UU Pemerintahan Aceh," 2013, <https://www.tribunnews.com/regional/2013/06/10/mendagri-qanun-wali-nanggroe-langgar-uu-pemerintahan-aceh>.

¹² Norman K Denzin and Yvonna S. Lincoln, "Disiplin Dan Praktik Penelitian Kualitatif," in *The Sage Handbook Of Qualitative Research 1 (Edisi Ketiga)*, ed. Norman K. Denzin & Yvonna S Lincoln, Bahasa Ind (Yogyakarta: Pustaka Pelajar, 2011).2

¹³ Egon G. Guba and Yvonna S. Lincoln, "Berbagai Paradigma Yang Bersaing Dalam Penelitian Kualitatif," in *Handbook Qualitative*

epistemology, ontology, and methodology¹⁴ Paradigm want to show that everything is based on reality (which can be built based on experience, observation)¹⁵ This type of research is non-doctrinal research¹⁶ The approach used in this research is the socio-legal approach.¹⁷

Discourse Regarding the *Wali Nanggroe* Institution

Before this research was carried out to complete a journal script, there have been other studies doing research first. The researcher begins with research conducted by Badriadi entitled *Wali Nanggroe* in Aceh: Is he the Real King or the Fake One? A Political Review¹⁸ This journal focuses more on the *Wali Nanggroe* election process which is considered incompatible with democracy. This study discusses the stages of each amendment to *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution which has been adjusted to current conditions.

The publication was written by M. Adli Abdullah entitled *Kedudukan Wali Nanggroe Setelah Lahirnya Undang-Undang Pemerintahan Aceh* that the Kingdom of Aceh was once the top five Islamic powers along with

Research, ed. Norman K. Denzin and Yvonna S. Lincoln, Bahasa Ind (Yogyakarta: Pustaka Pelajar, 2009).135-136

¹⁴ Erlyn Indarti, "Diskresi Dan Paradigma : Sebuah Telaah Filsafat Hukum" (Semarang, 2010).16

¹⁵ FX Adji Samekto, *Ilmu Hukum Dalam Perkembangan Pemikiran Menuju Post-Modernisme* (Lampung: Indep Publishing, 2012).69

¹⁶ Muhammad Helmy Hakim, "Pergeseran Orientasi Penelitian Hukum Dari Doktrinal Ke Sosio-Legal," *Syariah Jurnal Hukum Dan Pemikiran* 16, no. 2 (2016), <https://doi.org/http://dx.doi.org/10.18592/sy.v16i2.1031.107>

¹⁷ Sulistyowati Irianto, "Praktik Penelitian Hukum: Perspektif Sosiolegal," 2011, https://www.bphn.go.id/data/documents/materi_cle_8_prof_dr_sulistyowati_irianto_full.pdf.4

¹⁸ Muhammad Siddiq Armia Badri hasan Sulaiman, Zahlul Pasha Karim, Khairani Binti Mukdin, Muslem Abdullah Ahmad, "Wali Nanggroe in Aceh: Is He the Real King or the Fake One? A Political Review," *International Journal of Innovation, Creativity and Change* 13, no. 10 (2020): 735-49.

Turkey, Morocco, Iran, and Moghul (India). The kingdom of Aceh is the stronghold of the world's Islamic kingdoms to face the expansion of the western world which has given birth to various works, scholars, and styles of government leadership that is continuously being studied until now. About guardianship (*Wali Nanggroe*) in Aceh, it occurs in three phases. According to this study, the *Wali Nanggroe* war as a unifier was felt during the war. For *Wali Nanggroe* to come back as a unifier for the people of Aceh, the *Wali Nanggroe* Institution must be given the authority regulated in law.¹⁹

On the other hand, the current *Wali Nanggroe*, namely His Excellency, Malik Mahmud, is the highest local-traditional leader in Aceh, where he leads the bureaucracy in a new institution, namely the *Wali Nanggroe* Institute in Aceh. Some critics in Aceh say that the role of His Excellency Malik Mahmud is almost close to that of a king in Aceh.²⁰

The controversy regarding the position and existence of the *Wali Nanggroe* Institution cannot be avoided, especially as it relates to the current *Wali Nanggroe*. The first is the process of forming Aceh *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution, where the local party at that time, the Aceh Party, controlled the parliament. The second is that *Wali Nanggroe* is currently a former prime minister (Perdana Meuntro) who is directly under and the eighth *Wali Nanggroe* confidant, namely a high-ranking member of the Free Aceh Movement (GAM) Hasan Di Tiro. This means that according to this research there is a strong relationship between the Aceh Party in the parliament at

¹⁹ M Adli Abdullah, "Kedudukan Wali Nanggroe Setelah Lahirnya Undang-Undang Pemerintahan Aceh," *Kanun - Jurnal Ilmu Hukum* 18, no. 2 (2016), <https://doi.org/10.24815/kanun.v18i2.5925.281-284>

²⁰ Mushahid Ali, "Aceh's New Cultural Leader: Former Separatist Now Guardian of State," 2013, <https://www.rsis.edu.sg/rsis-publication/rsis/2118-acehs-new-cultural-leader/#.YH6ee-gzBIU.1>

that time, namely the 2009-2014 period with the current *Wali Nanggroe*.²¹

The *Wali Nanggroe* Institution can be said to be the institution needed in Aceh, especially for customs, social norms of society, and the unity of Aceh. The history of Aceh has shown that *Wali Nanggroe* was recorded as Qadhi Malikul Adil who functioned as a Justice for the legitimacy of executive political decisions in the Sultanate, this is in line with the research conducted by Dahlan A Rahman and Nurihman Abdullah that the *Wali Nanggroe* Institution has the main function of strengthening the role related to the potential of Acehnese culture and customs.²²

The studies mentioned above show that there are no studies similar to this research, so this research will have its value in research on the *Wali Nanggroe* Institute.

Seeing the Qanun of the Wali Nanggroe Institution from the Aspects of the Establishment of Legislation, Politics, Law and Special Autonomy

1. Establishment Of Legislation

The study of philosophy, justice has been the subject of serious discussion since the beginning of the emergence of Greek philosophy. Discussions on justice have a broad orientation, ranging from ethical, philosophical, legal to social justice.²³ Justice is important to discuss because justice is a balance

²¹ Arif Akbar, "Malik Mahmud Legal Strongmen?," *Logos Journal* 2, no. 1 (2019), <https://doi.org/https://doi.org/10.22219/logos.Vol2.No1.38-50.43-44>

²² Dahlan A. Rahman and Nuriman Abdullah, "Dynamics and Prospect of Wali Nanggroe Institution Post-Conflict in Aceh: Analysis of Policy and Educational Development," in *Proceeding of MICoMS*, vol. 1, 2018, <https://doi.org/10.1108/978-1-78756-793-1-00021.351-352>

²³ Bahder Johan Nasution, "Kajian Filosofis Tentang Hukum Dan Keadilan Dari Pemikiran Klasik Sampai Pemikiran Modern," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 11, no. 2 (2016), <https://doi.org/10.19105/al-ihkam.v11i2.936.249>

between individuals and society that cannot be separated from each other.²⁴

Talks about justice are grouped into two things, namely something that is closely related in terms of the essence of justice, the second is the content or norms to act concretely in certain circumstances.²⁵ Sudikno Mertokusumo in Winda Wijayanti said that the essence of justice is a view of treatment or action that is studied with a norm in which the view is viewed subjectively (subjectively for the interests of the group, group, and so on) beyond other norms, in this case, two parties involved, namely the party treating and the party receiving the treatment.²⁶

The formation of laws and regulations in Indonesia must contain the values of justice. Justice is an important instrument in the formation of laws and regulations in Indonesia. Indonesia is a constitutional state which is based on Pancasila as the nation's philosophy which cannot be separated from the formation of statutory regulations including regional regulations. this means that the principles of justice must be part of the formation of the prevailing laws and regulations in Indonesia.

The constitutional state of Indonesia has a hierarchy of statutory regulations and the highest in the 1945 Constitution. As a rule of law, in the formation of laws and regulations, Pancasila must be guided by the philosophy and ideals of Indonesian law.

As a philosophy in the state, all attitudes and behavior of the Indonesian nation in society and as a

²⁴ Muhammad Helmi, "Konsep Keadilan Dalam Filsafat Hukum Dan Filsafat Hukum Islam," *Jurnal Mazahib* Vol. 14, no. NO. 2 (2015), <https://doi.org/https://doi.org/10.21093/mj.v14i2.342.135>

²⁵ Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar* (Yogyakarta: Liberty, 1999).37

²⁶ W. Wijayanti, "Eksistensi Undang-Undang Sebagai Produk Hukum Dalam Pemenuhan Keadilan Bagi Rakyat (Analisis Putusan Mahkamah Konstitusi Nomor 50/Puu-X/2012)," *Jurnal Konstitusi* 10, no. 1 (2013): 179–204, <https://doi.org/10.31078/jk.184>

state must be based on the values of Pancasila. The values of Pancasila which are rooted in the essence of Pancasila are universal, fixed, unchanging general abstract in nature.²⁷

Quoting Gustav Radbruch in Satjipto Rahardjo stated that law must fulfill various actions as the basic value of law, the basic values of law are justice, usefulness, and legal certainty.²⁸

Regarding fairness from the aspects of regulations, laws, it also cannot be separated from several influencing aspects such as subjective aspects and objective aspects. Usually, these two aspects are used to see the behavior of the formers of laws and regulations and the behavioral factors that impede clean governance. These two aspects are summarized in the Roccipi analysis tool.

Roccipi is a theory that identifies seven factors that are considered to often raise problems with the enforcement of laws and regulations. The seven components can be used to bring in the form of suggestions regarding propositions regarding explanations that can be tested and interrelated, consisting of Rule, Opportunity, Capacity, Communication, Interest, Process, and Ideology.²⁹

2. Politics of Law

Political law is an inseparable part of the study of statutory regulations. According to Moh Mahfud MD, political law is a Legal Policy or a direction of law that will be enforced by the state to achieve the country's goals³⁰ which can take the form of a newly legal product or replace an existing law, aside from that,

²⁷ Kaelan, *Filsafat Pancasila Pandangan Hidup Bangsa Indonesia* (Yogyakarta: Penerbit Paradigma, 2002).240

²⁸ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: PT. Citra Aditya Bakti, 1996).19

²⁹ Ni Putu Niti Suari Giri, "Lembaga Negara Pembentuk Undang-Undang," *Jurnal Komunikasi Hukum* 2, no. 1 (2016).87-88

³⁰ Moh. Mahfud MD, *Perdebatan Hukum Tata Negara* (Jakarta: Rajawali Pers, 2010).49

Legal political science is not limited only to the policy or official direction of the law to be enforced but also involves various matters related to the official direction, because the political science of law dissects the elements mentioned by Friedman, namely legal material, legal structure, and culture. Law.³¹ So that the political function of law includes the process of making and implementing laws that can show the nature and direction in which the law will be built and enforced.³² In politics of law, there are 2 (two) dimensions that are inseparable from each other, namely the philosophical-theoretical dimension and the normative-operational dimension.³³

Indonesia is a country of law. As a rule of law, the Indonesian state carries out the commands of the Constitution based on statutory regulations. This statutory regulation was formed to protect all Indonesian citizens, which is by the preamble to the 1945 Constitution, namely:

"... to form an Indonesian state government that protects the entire Indonesian nation and all the blood of Indonesia and to advance the general welfare, to educate the nation's life, and to participate in implementing world order based on independence, eternal peace, and social justice ..."

The preamble to the 1945 Constitution implies that in the administration of a country to achieve general welfare, the formation of various laws and regulations in the Republic of Indonesia is very important, because the state interferes in taking care of the people's welfare in the legal, social, political, economy, culture, environment, and defense and the

³¹ Moh. Mahfud MD, *Membangun Politik Hukum, Menegakkan Konstitusi* (Jakarta: Rajawali Pers, 2011).4-5

³² Moh. Mahfud MD, *Politik Hukum Di Indonesia* (Depok: Rajawali Pers, 2018).17

³³ Bambang Iswanto, "Ekonomi Islam Dan Politik Hukum Di Indonesia," *Mazahib Jurnal Pemikiran Hukum Islam* XII, no. 2 (2013), <https://doi.org/DOI: 10.21093/mj.v12i2.322.85>

security provided by the establishment of regulations can no longer be avoided.³⁴

Because there is the participation of the state in drafting laws and regulations to achieve the welfare of citizens, the laws and regulations that are formed must be good, harmonious, and easy to apply laws and regulations. To achieve these objectives, laws, and regulations are required as a guideline as a reference for parties involved in the formation of regulations both at the national level and at the regional regulatory level.³⁵

Thus the formation of legal products in Indonesia, be it in national regulations or local regulations, legal products that are formed must not come out of the state's objectives as stated in the preamble to the 1945 Constitution because legal politics is to achieve the implementation of statutory regulation.

For a legal product to remain in the corridor of state goals, the legal product must be destroyed in tandem with the current conditions that exist in society. It is intended that the legal product is not outdated and left behind from the reality that lives in society. Therefore, this legal policy has a relationship with legislation, both on a national scale and a local scale, namely regional regulations or *Qanuns* in Aceh.

Qanun Number 8 of 2012 concerning the *Wali Nanggroe* Institution is a regulation at the provincial level. In the province of Aceh, the legal product of regional regulations is called *Qanun*, the process of making this legal product is also the same as in other provinces in Indonesia, so *Qanuns* are the same as regional regulations or regional regulations that involve the role of the executive and together with the legislature in discussing regional regulations.

³⁴ Maria Farida Indrati S, *Ilmu Perundang-Undangan 1, Jenis, Fungsi Dan Materi Muatan* (Yogyakarta: Kanisius, 2007).1

³⁵ Maria Farida Indrati S, *Ilmu Perundang-Undangan 2, Proses Dan Pembentukannya* (Yogyakarta: Kanisius, 2007).1

Legal politics is a tool used to see government policies, so it is only natural that you can also look at legal products related to the *Wali Nanggroe* Institution, in this case, the Aceh *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution along with the first and second amendments to the *Qanun*.

Every change in the *Qanun* has a close relationship with the institutions that formed the *Qanun*. This is the direction of government policies related to the *Wali Nanggroe* Institution in Aceh. These changes are the most important elements in legal politics, they could be changes that have the interests of certain groups or are serious about realizing the goals of the state at the local government level.

3. Special Autonomy

The Indonesian state as an independent and sovereign country, of course, in producing legislation products must rely on its legal system or a national legal system that is built on the noble values that exist in Indonesia, which is based on the philosophy of Pancasila. The national legal system is a legal system that is formed from the natural conditions of Indonesian society culture that connects nationally, where the legal system includes the interests of all Indonesian people who are still within the national scope so that the building of this national legal system includes the values of life in the state. Which is the crystallization of Indonesia's national culture.³⁶

To realize the welfare of the diverse Indonesian people, the Indonesian state applies a decentralized system to the regions to be able to exploit the potential of their regions. According to Ni'matul Huda, in a unitary state, the responsibility for implementing governmental tasks remains in the hands of the central government, however, because the Indonesian

³⁶ Soimin, *Pembentukan Peraturan Perundang-Undangan Negara Di Indonesia* (Yogyakarta: UII Press, 2010).2

government adheres to the principle of a decentralized unitary state, certain tasks are managed by the local government. Because a good state or government is by the dynamics of its society, this condition tends towards autonomy.³⁷

The 1945 Constitution states very clearly in Article 18 concerning Regional Government, this is one of the driving indicators for the enactment of regional autonomy in Indonesia. Regional autonomy provides opportunities for regional governments to form regional regulations that aim to regulate regions according to regional characteristics. Regional regulations that are formed are a product of the legislature at the regional level so the limits for their application are very narrow.³⁸

In the formation of political decisions at the regional level, decentralization plays a very important role, because decentralization has a strong relationship with democracy, it is based on the assumption that decentralization opens up more space for people to be fully involved in the process of forming these political decisions, especially at the level area³⁹ and also the spirit of democracy at the regional autonomy level wants to reorganize/restructure the relationship between the center and the regions.⁴⁰

The unitary state of the Republic of Indonesia is composed of island clusters and is formed from different regions that make up the unitary republic of Indonesia.

Regional management in Indonesia has a legal umbrella, namely law number 23 of 2014 concerning

³⁷ Ni'matul Huda, *Otonomi Daerah, Filosofi, Sejarah Perkembangan Dan Problematika* (Yogyakarta: Pustaka Pelajar, 2009).55

³⁸ Ni'matul Huda & R. Nazriyah, *Teori Dan Pengujian Peraturan Perundnag-Undangan* (Bandung: Nusa Media, 2011).110-113

³⁹ Ni'matul Huda, *Dinamika Ketatanegaraan Indonesia Dalam Putusan Mahkamah Konstitusi* (Yogyakarta: FH UII Press, 2011).189

⁴⁰ Bob Sugeng Hadiwinata & Christoph Schuck, ed., *Demokrasi Di Indonesia Teori Dan Praktik* (Yogyakarta: Graha Ilmu, 2010).174

regional governance. To carry out the mandate of this law, the Indonesian government provides the principle of autonomy in the management of regional autonomy.

The implementation of regional autonomy in Indonesia is based on the classification of government affairs; namely absolute government affairs, concurrent government affairs, and general government affairs.

Implementation of regional autonomy in Indonesia to promote welfare for the community. With the implementation of regional autonomy in Indonesia, the powers that have been centralistic have changed to become decentralized. In the context of a unitary state that administers regional autonomy, it still maintains the form of a unitary state, so that there is a division of authority between the central government and regional governments.

The implementation of special autonomy in Indonesia is given to only a few regions, DKI Jakarta, DI Aceh, DI Yogyakarta, and Papua Province. The implementation of special autonomy for the aforementioned provinces is based on the principle of the unitary state of the Republic of Indonesia.

Laws relating to the specificity of Aceh from the past until now are Law Number 44 of 1999 concerning the Special Region of Aceh, Law Number 18 of 2001 concerning Special Autonomy for Aceh Province as Nanggroe Aceh Darussalam Province, and Law Number 11 of 2006 concerning the Government of Aceh. One of the implementations of special autonomy in Aceh is an acknowledgment of Islamic values⁴¹ against the application of Islamic Sharia in Aceh which has become a philosophical basis in recognition of the existence of

⁴¹ Rizkika Lhena Darwin, "The Power of Female Brokers: Local Elections in North Aceh," *Contemporary Southeast Asia* 39, no. 3 (2017): 532–51, <https://doi.org/10.1355/cs39-3g.539>

special autonomy in Aceh,⁴² this is one of the reasons for the implementation of special autonomy in Aceh.⁴³

The concept that regulates the implementation of special autonomy in Aceh philosophically is the good intention of the central government to maintain the noble values that have existed for a long time and are still alive and developing today. Almost every region that is given special authority by the Indonesian state has its characteristics as a philosophy in the implementation of special autonomy rights.

Policy Reformulation Regarding the *Qanun* of the *Wali Nanggroe Institution in Aceh*

Law Number 11 of 2006 concerning the Aceh Government states that the Aceh *Qanun* is a statutory regulation similar to a provincial regional regulation that regulates the administration of governance and the life of the Acehese people. District/city *Qanun* is a statutory regulation similar to a district/city regional regulation that regulates the administration of governance and the life of the district/city community in Aceh.

Before this research discusses the reformulation of the policy of the Aceh *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institute, the researcher will first outline the harmonization between Aceh *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution with several laws at the national level.

The hierarchical aspect of statutory regulations *Qanun Wali Nanggroe* Institution is under Law Number 11 of 2006 concerning Aceh Government. This research will outline the harmonization of *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution from the focus

⁴² Nurlinah, Rizkika Lhena Darwin, and Haryanto, "After Shari'ah: Islamism and Electoral Dynamics at Local Level in Indonesia," *Global Journal Al-Thaqafah* 8, no. 2 (2018).21

⁴³ Hayatun Na'imah and Bahjatul Mardhiah, "Perda Berbasis Syari'ah Dan Hubungan Negara-Agama Dalam Perspektif Pancasila," *Mazahib* 15, no. 2 (2016), <https://doi.org/10.21093/mj.v15i2.623.162>

of this research which is considered important to be expanded. National law is a law established by the state through a process of formation by an official state institution that applies within state boundaries. About national law in Indonesia, the law formed by the Indonesian state by an official institution that applies within the Indonesian state borders is based on Pancasila and the 1945 constitution.

The connection with this research is the suitability of *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution with national legal instruments. The national legal instrument referred to here is the law relating to *Qanuns* in Aceh, especially *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution. The laws related to *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution are Law Number 12 of 2011 concerning the formation of Laws and Regulations and Law Number 39 of 1999 concerning Human Rights.

Before this research explains the suitability of *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution with Law Number 12 of 2011 concerning the Establishment of Legislation, the researcher will first explain the meaning of *Qanun*.

Qanun Number 5 of 2011 concerning Procedures for Formation of *Qanun* mentions in Article 1 Paragraph (21) explaining that *Qanun* is a Legislative Regulation formed by the DPRA with the mutual consent of the Governor or Legislation established by the DPRK with the mutual consent of the Regent/Mayor. Paragraph (22) states that the *Qanun* Aceh is a statutory regulation established by the DPRA with the mutual consent of the Governor that regulates the administration of the government and the life of the Acehnese people and in Paragraph (23) explains that a *Qanun* Regency/City is a statutory regulation established by DPRK with the joint approval of the Regent/Mayor who regulates the administration of government and the life of the Regency/City community in Aceh.

Legislative products are products of laws and regulations that are stipulated by or involve the role of people's representative institutions. So that *Qanuns* can be translated into Indonesian as a regional regulation established by a legislative institution that follows the stages and which has been determined by the laws and regulations in Indonesia. This research looks at the suitability of *Qanun* Number 8 of 2012 concerning the *Wali Nangroe* Institution with two national legal instruments, namely Law Number 12 of 2011 concerning the Formation of Laws and Regulations and Law Number 38 of 1999 concerning Human Rights.

Qanuns are the same as regional regulations in the hierarchy of laws and regulations in Indonesia. The hierarchy of laws and regulations in Indonesia is regulated in article 7 paragraph (1) in Law Number 12 of 2011 concerning the Formation of Laws and Regulations as follows:

1. The Constitution of Republic Indonesia 1945;
2. The decision of the people's consultative assembly;
3. Laws/Government Regulations in Lieu of Laws;
4. Government Regulation;
5. President's Regulation;
6. Provincial Regulations; and
7. Regency/City Regional Regulation.

Looking at the hierarchy and type of laws and regulations, it is very clear that provincial and district/city regulations are at the bottom of the hierarchy of laws and regulations in Indonesia.

From the definition of *Qanuns*, the types and hierarchies of statutory regulations above indicate that *Qanuns* are under regional regulations in the statutory regulation system in Indonesia.

Qanun is a regional regulation, so it is fitting in its formation system to follow the principles stipulated by Law Number 12 of 2011 concerning the Formation of Legislative Regulations.

The provisions regarding the requirements to become a *Wali Nanggroe* which are regulated in *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution that to become a *Wali Nanggroe* "can speak Aceh well and fluently" are a separate issue in the study of legislation and are added to the condition of the diversity of Acehnese people.

The formation of laws and regulations is formed by the social realities that develop in society. This developing condition cannot be seen in the provisions for becoming *Wali Nanggroe* which are regulated in *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution. The diversity of living in Acehnese society should be a separate consideration in determining the requirements to become *Wali Nanggroe* in Aceh.

The discrepancy between the requirements to become *Wali Nanggroe* as regulated in *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution has an impact on the feeling of injustice towards people or tribes who do not speak Acehnese in Aceh. Not being accommodated, this is contrary to the content of the laws and regulations as regulated in Law Number 12 of 2011 concerning the Formation of Laws and Regulations, namely in Article 6 Paragraph (1) states that the material content of the legislation must reflect the principles as follows: following;

1. Protection (*pengayoman*);
2. Humanity (*kemanusiaan*);
3. Nationality (*kebangsaan*);
4. Kinship (*kekeluargaan*);
5. Archipelago (*kenusantaraan*);
6. Unity in Diversity (*bhinneka tunggal ika*);
7. Justice (*keadilan*);
8. equal position in law and government (*kesamaan kedudukan dalam hukum dan pemerintahan*);
9. legal order and certainty (*ketertiban dan kepastian hukum*) and/or;
10. balance and harmony (*keseimbangan, keserasian, dan keselarasan*)

The principle of justice is the main touchstone for *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution. This means that the determination of the requirements to become a *Wali Nanggroe* must be able to speak Acehnese contradicts the principle of ignorance, considering that not all Acehnese can speak Acehnese. Article 7 paragraph (2) of Law Number 12 the Year 2011 concerning the formation of statutory regulations clearly states;

“The legal force of Legislation is by the hierarchy as referred to in paragraph (1).”

The explanation in Article 7 paragraph (2) clearly states;

“In this provision what is meant by "hierarchy" is the separation of each type of Legislation based on the principle that the lower laws and regulations may not conflict with the higher laws and regulations.”

According to Jimly Asshidiqie that Law Number 12 the Year 2011 Concerning the Formation of Legislation was formed to create an orderly formation of laws and regulations, so that the conception and formulation of norms are solid, unanimous, and harmonious, not contradicting each other, and overlapping one another. Through this Law, it is hoped that all institutions authorized to form laws and regulations will have specific guidelines that are standardized and standardized in the process, methods, and techniques of drafting legislation in a planned, integrated, and systematic manner.⁴⁴

After the peace between the GAM group and the Government of the Republic of Indonesia, basic rights as Acehnese people must be fulfilled, especially in running for *Wali Nanggroe*. Indonesia as a sovereign state should be well understood by the elites at the provincial level in Aceh because this is regulated and guaranteed by the

⁴⁴ “Perancangan Peraturan Daerah,” accessed April 21, 2021, <https://www.jimlyschool.com/diklat/perancangan-peraturan-daerah/>.

constitution of the Unitary State of the Republic of Indonesia.

The Indonesian state as a country based on the Pancasila philosophy, the law established at the regional level must truly fulfill the elements of justice, as stated in the Pancasila. Pancasila has aspirations to bring about justice. Radbruch argues that justice is an ideal of law. The aspiration of justice must be filled concretely so it must look at the finalization of justice to advance the goodness of human life as a determinant of a law.⁴⁵

The conditions stated in the *Qanun* of the *Wali Nanggro*e institution limit the constitutional rights of the Acehese people. Quoting H.A.S Natabaya in Tundjung Herning Sitabuana that regulation should coincide with national goals where justice is based on Pancasila and the 1945 Constitution.⁴⁶

Article 28 D paragraph (3) of the 1945 Constitution clearly states that; "*Every citizen has the right to equal opportunities in government*"

The affirmation provided by the Basic Law is not contained in article 69 *Qanun* number 8 of 2012 concerning the *Wali Nanggro*e Institution. This clearly shows that this article has reduced the right of the Acehese people to have equal opportunities in government.

Manfred Nowak said that human rights are: *Those fundamental rights, which empower human beings to shape their lives in accordance with liberty, equality, and respect for human dignity. The sum of civil, political, economic, social, cultural, and collective rights is laid down in international and regional human rights instruments, and in the constitutions of states. The only universally recognized value system under present international law comprising elements of liberalism, democracy popular*

⁴⁵ Samuel F. Lena Bernard L. Tanya, Theodorus Yosep Parera, *Pancasila Bingkai Hukum Indonesia* (Yogyakarta: Geta Publishing, 2015).15

⁴⁶ Tundjung Herning Sitabuana, *Berhukum Di Indonesia* (Jakarta: Konstitusi Press, 2017).141

*participation, social justice, the rule of law, and good governance.*⁴⁷

Regarding Human Rights, it is specifically regulated in Law Number 39 the Year 1999 concerning Human Rights. The description in this article will focus on the right to participate in government. Law number 39 of 1999 concerning Human Rights philosophically explains that what is meant by human rights is everything that is bestowed by God Almighty to guarantee its dignity and harmony with its environment which cannot be ignored or reduced and must be protected. should not be ignored by anyone.

Human rights are guarantees provided by the state to citizens, including in the area of the right to participate in government. Law Number 39 of 1999 concerning Human Rights affirms that every citizen has the same rights in the field of government. This is very clearly stated in Article 43 and Article 44.

Article 43 in paragraph (3) confirms that;

Every citizen can be appointed in every government position.

Article 44 confirms that;

Everyone, either individually or collectively, has the right to submit opinions, requests, complaints, and or proposals to the government in the framework of implementing a clean, effective and efficient government, both orally and in writing by the provisions of laws and regulations.

The explanation given above explains that the rights of each individual or group are regulated and guaranteed by the state. Therefore, laws and regulations must accommodate every individual and group's right.

The requirements to become *Wali Nanggro*e as stated in article 69 point C *Qanun* Number 8 of 2012 concerning the *Wali Nanggro*e Institution if adjusted with law number 39 of 1999 concerning Human Rights are not

⁴⁷ Manfred Nowak, *Introduction to the International Human Rights Regime* (Leiden: Martinus Nijhoff Publisher, 2003).1

appropriate. Especially the philosophical elements regarding human rights in the field of government.

Qanun Number 8 of 2012 concerning the *Wali Nanggroe* Institution, when adjusted to two national legal instruments, clearly has inconsistencies. Non-compliance with Law Number 12 of 2011 concerning the Establishment of Legislation is a discrepancy in the field of the material content of laws and regulations, especially in the field of justice as stated in Article 6 Paragraph (1) Letter g, namely Justice. The content of the material of legislation must reflect the value of justice to be following the philosophy of the Indonesian nation, namely Pancasila, related to this research are the precepts that regulate social justice for all Indonesian people. Justice will be realized if the political activities that give birth to legal products are indeed in favor of the values of justice itself.⁴⁸

The explanation above indicates that *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution is not yet following national legal instruments. Referring to the theory presented by Hans Kelsen that the statutory regulations that are not following the laws and regulations over which it is canceled, and the ones who cancel are the parties who have the authority.

The common interest in this issue is every community in Aceh has the right to be able to run for *Wali Nanggroe* and is no exception limited to certain groups. In this section, the description of interests will be related to the particular interests of the groups in the Aceh legislature.

One of the requirements to become *Wali Nanggroe* is to be able to speak Aceh well and fluently. On the other hand, the people of Aceh are very diverse and not all can speak Acehnese, let alone well and fluently. The researcher translates this that the majority of Aceh Province are Acehnese who speak Acehnese. On the other

⁴⁸ Abdussalam, "Pengaruh Politik Dalam Pembentukan Hukum Di Indonesia," *Mazahib* XIV, no. 2 (2015), <https://doi.org/https://doi.org/10.21093/mj.v14i2.341.120>

hand, during the conflict, the Free Aceh Movement was dominated by Acehnese people who spoke Acehnese. Then the Free Aceh Movement was transformed into the Aceh Party where *Wali Nanggroe* Malik Mahmud was once *Tuha Peut* for the Aceh Party. The position of *Tuha Peut Partai Aceh* (local party in Aceh), held by Malik Mahmud, is a dominant elite position capable of influencing the running of the Aceh Party wheels. This is a form of the influence of Malik Mahmud, who was a GAM leader during the conflict in Aceh.⁴⁹

The analysis of the ROCCIPI indicator shows that the element of subjectivity, namely the interests of certain groups, is highly visible in *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution. This element of subjectivity emerged from local political elites, especially local political party elites in Aceh. Elites of local political parties came to power after the granting of special autonomy rights in the formation of local political parties in Aceh.

Using the Special Autonomy concept approach given by the Indonesian government to the province of Aceh has an impact on the formulation of *Qanuns* in Aceh, in this case, *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution. One of them is the use of Special Autonomy rights by groups of local political parties in Aceh in the formation of a *Qanun* that regulates the Aceh Special Institution, in this case, *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution.

The special autonomy rights granted by the Indonesian government to Aceh provide an opportunity for political elites in Aceh to incorporate an element of subjectivity into the formulation of *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution.

Policy reformulation is reformulating policies that have been formed, in this case, the laws and regulations that have been established by the government. So that it

⁴⁹ Rizkika Lhena Darwin, "Institusionalisasi Partai Aceh : Patronase Dan Konsolidasi Dalam Transisi Demokrasi Pasca Konflik," *Government: Jurnal Ilmu Pemerintahan* 9, no. 2 (2016).83-84

can be interpreted that the policy reformulation regarding *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution is related to reformulating or updating the *Qanun* by the prevailing values.

Quoting Barda Nawawi Arif's opinion that "law reform" is closely related to "sustainable society / development", "sustainable intellectual activity", "sustainable intellectual philosophy", "sustainable intellectual conceptions / basic ideas". The study of this problematic course aims to be a "generational" study. This means that the problematic reformulation or renewal of law is essentially a problem that must be continuously studied, especially scientific studies regarding the renewal/development of national law.⁵⁰

The essence of reforming the legal system in Indonesia is the Pancasila Legal System. Barda Nawawie Arief further stated, SHN-Pancasila is an SHN which is based/oriented on three pillars/values of PS balance, namely oriented to the values of "divinity" (religious moral), oriented to the values of "Humanity" (humanistic); and oriented to "social" values (nationalistic; democratic; social justice). Not only that but reformulating a law must also contain socio-political, socio-philosophical, and socio-cultural values, this is done to achieve justice.⁵¹

The reform of the national legal system must be based on the values of Pancasila. National legal reform is not only limited to reformat the legal level but must also take root at the regional regulatory level in Indonesia. The scope of the development of the national legal system includes three things, namely "substantial" (legal

⁵⁰ Barda Nawawi Arif, "Kuliah Umum:Pembangunan Sistem Hukum Nasional" (Padang: Magister Ilmu Hukum UNiversitas Bung Hatta, 2009).3

⁵¹ Muhammad Helmi, "Ketiadaan Daluwarsa P Dalam Hukum Pidana Islam Dan Pembaruan Hukum Pidana Di Indonesia," *Mazahib Jurnal Pemikiran Hukum Islam* XV, no. 2 (2016), <https://doi.org/http://dx.doi.org/10.21093/mj.v15i2.643.206>

substance), "structural" development (legal structure), and "cultural" development (legal culture).⁵²

Pancasila is the philosophy of the Indonesian state, every principle that exists in Pancasila cannot be contested. The formation of laws and regulations in Indonesia, cannot be forgotten about the values that exist in Pancasila. This requires responsive legal reformulation.⁵³

Article 2 of Law Number 12 the Year 2011 concerning the Formation of Prevailing Laws clearly states that; Pancasila is the source of all sources of state law

The explanation in paragraph (2) confirms that;

The placement of Pancasila as the source of all sources of state law is by the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely Almighty Godliness, just and civilized humanity, Indonesian Unity, Democracy led by wisdom in Deliberation / Representation, and social justice for all Indonesian people. Placing Pancasila as the basis and ideology of the state as well as the philosophical basis of the state so that any material contained in the Legislation must not conflict with the values contained in Pancasila.

The policy formulation regarding *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution for the future must start from reforms in the field of legal substance. Improving the substance of the law is an effort to restructure legal material through reviewing and rearranging laws and regulations to create an orderly law by taking into account general principles and hierarchy of laws and respecting and strengthening local wisdom and

⁵² Barda Nawawi Arif, *Pembangunan Sistem Hukum Nasional* (Semarang: Pustaka Magister, n.d.).

⁵³ M.Harun, "Reformulasi Kebijakan Hukum Terhadap Penegakan Hukum Pidana Pemilu Dalam Menjaga Kedaulatan Negara," *Jurnal Rechtsvinding Mendia Pembinaan Hukum Nasional* 5, no. 1 (2016), http://rechtsvinding.bphn.go.id/artikel/ART_2_JRV_3_NO_2_PROTECT.pdf. 114

customary law to enrich the legal system and national legal regulations.

The Aceh government's efforts to reform the *Qanun* of the *Wali Nanggroe* Institution have already been carried out, the most recent of which is Aceh *Qanun* Number 10 of 2019 Second Amendment to Aceh *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution

This reform of the *Qanun* is a manifestation of the good intentions of the Aceh government to reform regulations relating to special institutions in Aceh, one of which is the *Wali Nanggroe* Institution. If we look at the statutory aspects of the Aceh *Qanun* Number 10 of 2019 the Second Amendment to the Aceh *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution is getting better and is approaching the formality procedure for the formation of legislation. It only has a deficiency in the substance of the initial formation, namely the reduced authority held by the *Wali Nanggroe* Institution.

It is different from the first regulation which regulates the *Wali Nanggroe* Institution, namely *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution, which has full opportunities for other special institutions in Aceh but seems authoritarian because it seems to co-opt all the special institutions that first formed in Aceh.

This research uses the Post-Positive paradigm, this paradigm puts forward the element of objectivity of the researcher, it's just that something is missing from regulation so there is an element of subjectivity, namely shifting criticism of regulation, in this study the *Qanun* of the *Wali Nanggroe* Institution. The most recent *Qanun* that regulates the *Wali Nanggroe* institution is *Qanun* Number 10 of 2019 concerning the Second Amendment to *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution.

Of the three aspects used by researchers in conducting this research, namely aspects of statutory theory, a political theory of law, and special autonomy,

researchers found that these three aspects are interrelated to answer this research.

The statutory theory shows that *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution up to the second amendment, namely *Qanun* Number 10 of 2019 concerning the Second Amendment to *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution still needs to be reformed or reformulated to answer the sense of justice in the people of Aceh, if necessary, the conditions that can hinder the right of individuals to run for *Wali Nanggroe* are simply removed.

The political theory of law used in the research has a relationship with statutory theory, namely because reformulation must be carried out on *Qanun* Number 8 of 2012 concerning the *Wali Nanggroe* Institution, when making these changes it must be in line with the direction of national legal politics so that it is in line with state ethics in Indonesia.

Next is special autonomy, in this study the discussion of special autonomy is important because the discussion in this study is about special institutions in Aceh. Long before the discussion regarding the *Wali Nanggroe* Institution, the special autonomy rights for Aceh included the formation of local political parties. Regardless of political interests or not, it is certain that the formation of local political parties also coincides with the formation of new local rulers in Aceh.

The basic concept of special autonomy is to create welfare on a local or regional scale in Aceh, but it is like a weapon for Aceh when special autonomy is not properly managed. In connection with the basic concept of special autonomy, the *Wali Nanggroe* institution must be able to be conceptualized as an institution capable of encouraging the Aceh government to realize prosperity in Aceh.

This research shows that the reform of the *Wali Nanggroe* Institution in the future must be autonomous, meaning that there is no political influence in the substance of the *Qanun*.

The *Wali Nanggroe* Institution is customary, the highest adat stakeholder. If the community no longer believes in the executive and legislative bodies, the last focus of the Acehnese people is the *Wali Nanggroe* Institution, then the regulations governing the *Wali Nanggroe* Institution cannot be co-opted to become a mouthpiece for the interests of certain groups in Aceh.

To quote Syahrizal Abbas, the *Wali Nanggroe* Institution is very special. The specialty of this institution is not only in the institution but also in the *Wali Nanggroe* itself. So that there are two features of this institution, namely the institution and the institutional leader.

Conclusion

The controversy over the existence of the *Wali Nanggroe* Institution cannot be avoided in Aceh. However, this institution must still be maintained because of the mandate of the Aceh government law. For the *Wali Nanggroe* Institution to remain in Aceh as an elder institution, the regulations governing it must be reformulated to be in line with the goals of the state and in line with the existing laws and regulations on it. The substance of the regulation also provides equal opportunities to the people of Aceh in the *Wali Nanggroe* Institution.

For this reason, regulatory reforms must be carried out to answer and provide legal certainty for the people of Aceh to get the same rights in government, especially in this special institution of Aceh, namely the *Wali Nanggroe* Institution.

BIBLIOGRAPHY

- (Ed), Bakri. "KEMENTERIAN DALAM NEGERI R.I," 2013.
<https://www.kemendagri.go.id/berita/baca/11673/Qanun-wali-nanggroe-inti-koreksian-mendagri>.
- Abdullah, M Adli. "Kedudukan *Wali Nanggroe* Setelah Lahirnya Undang-Undang Pemerintahan Aceh." *Kanun - Jurnal Ilmu Hukum* 18, no. 2 (2016).
<https://doi.org/10.24815/kanun.v18i2.5925>.
- Abdussalam. "Pengaruh Politik Dalam Pembentukan Hukum Di Indonesia." *Mazahib* XIV, no. 2 (2015).
<https://doi.org/https://doi.org/10.21093/mj.v14i2.341>.
- Akbar, Arif. "Malik Mahmud Legal Strongmen?" *Logos Journal* 2, no. 1 (2019).
<https://doi.org/https://doi.org/10.22219/logos.Vol2.No1.38-50>.
- Ali, Mushahid. "Aceh's New Cultural Leader: Former Separatist Now Guardian of State," 2013.
<https://www.rsis.edu.sg/rsis-publication/rsis/2118-acehs-new-cultural-leader/#.YH6ee-gzblU>.
- Arif, Barda Nawawi. "Kuliah Umum: Pembangunan Sistem Hukum Nasional." Padang: Magister Ilmu Hukum Universitas Bung Hatta, 2009.
- . *Pembangunan Sistem Hukum Nasional*. Semarang: Pustaka Magister, n.d.
- Badri hasan Sulaiman, Zahlul Pasha Karim, Khairani Binti Mukdin, Muslem Abdullah Ahmad, Muhammad Siddiq Armia. "*Wali Nanggroe* in Aceh: Is He the Real King or the Fake One? A Political Review." *International Journal of Innovation, Creativity and Change* 13, no. 10 (2020): 735–49.
- Bernard L. Tanya, Theodorus Yosep Parera, Samuel F. Lena. *Pancasila Bingkai Hukum Indonesia*. Yogyakarta: Geta Publishing, 2015.
- Darwin, Rizkika Lhena. "Institusionalisasi Partai Aceh : Patronase Dan Konsolidasi Dalam Transisi Demokrasi Pasca Konflik." *Government: Jurnal Ilmu Pemerintahan* 9, no. 2 (2016).

- . “The Power of Female Brokers: Local Elections in North Aceh.” *Contemporary Southeast Asia* 39, no. 3 (2017): 532–51. <https://doi.org/10.1355/cs39-3g>.
- Giri, Ni Putu Niti Suari. “Lembaga Negara Pembentuk Undang-Undang.” *Jurnal Komunikasi Hukum* 2, no. 1 (2016).
- Hakim, Muhammad Helmy. “Pergeseran Orientasi Penelitian Hukum Dari Doktrinal Ke Sosio-Legal.” *Syariah Jurnal Hukum Dan Pemikiran* 16, no. 2 (2016).
<https://doi.org/http://dx.doi.org/10.18592/sy.v16i2.1031>.
- Helmi, Muhammad. “Ketiadaan Daluwarsa P Dalam Hukum Pidana Islam Dan Pembaruan Hukum Pidana Di Indonesia.” *Mazahib Jurnal Pemikiran Hukum Islam* XV, no. 2 (2016).
<https://doi.org/http://dx.doi.org/10.21093/mj.v15i2.643>.
- . “Konsep Keadilan Dalam Filsafat Hukum Dan Filsafat Hukum Islam.” *Jurnal Mazahib* Vol. 14, no. NO. 2 (2015).
<https://doi.org/https://doi.org/10.21093/mj.v14i2.342>.
- Helsinki, MoU. “Memorandum of Understanding Between The Government Of The Republic Of Indonesia And The Free Aceh Movement,” 2005.
<https://www.dfat.gov.au/sites/default/files/mou-indonesia-australia-cyber-cooperation.pdf>.
- . “Nota Kesepahaman Antara Pemerintah Republik Indonesia Dan Gerakan Aceh Merdeka,” 2005.
- Huda, Ni’matul. *Dinamika Ketatanegaraan Indonesia Dalam Putusan Mahkamah Konstitusi*. Yogyakarta: FH UII Press, 2011.
- . *Otonomi Daerah, Filosofi, Sejarah Perkembangan Dan Problematika*. Yogyakarta: Pustaka Pelajar, 2009.
- Indarti, Erlyn. “Diskresi Dan Paradigma: Sebuah Telaah Filsafat Hukum.” Semarang, 2010.
- Indonesia, Republik. “Undang-Undang Republik Indonesia Nomor 11 Tahun 2006 Tentang

- Pemerintahan Aceh,” 2006.
- Irianto, Sulistyowati. “Praktik Penelitian Hukum: Perspektif Sosiolegal,” 2011. https://www.bphn.go.id/data/documents/materi_cle_8_prof_dr_sulistyowati_irianto_full.pdf.
- Iswanto, Bambang. “Ekonomi Islam Dan Politik Hukum Di Indonesia.” *Mazahib Jurnal Pemikiran Hukum Islam* XII, no. 2 (2013). <https://doi.org/DOI:10.21093/mj.v12i2.322>.
- Kaelan. *Filsafat Pancasila Pandangan Hidup Bangsa Indonesia*. Yogyakarta: Penerbit Paradigma, 2002.
- Lincoln, Egon G. Guba and Yvonna S. “Berbagai Paradigma Yang Bersaing Dalam Penelitian Kualitatif.” In *Handbook Qualitative Research*, edited by Norman K. Denzin and Yvonna S. Lincoln, Bahasa Ind. Yogyakarta: Pustaka Pelajar, 2009.
- Lincoln, Norman K Denzin and Yvonna S. “Disiplin Dan Praktik Penelitian Kualitatif.” In *The Sage Handbook Of Qualitative Research 1 (Edisi Ketiga)*, edited by Norman K. Denzin & Yvonna S Lincoln, Bahasa Ind. Yogyakarta: Pustaka Pelajar, 2011.
- M.Harun. “Reformulasi Kebijakan Hukum Terhadap Penegakan Hukum Pidana Pemilu Dalam Menjaga Kedaulatan Negara.” *Jurnal Rechtsvinding Mendia Pembinaan Hukum Nasional* 5, no. 1 (2016). http://rechtsvinding.bphn.go.id/artikel/ART_2_JRV_3_NO_2_PROTECT.pdf.
- Mertokusumo, Sudikno. *Mengenal Hukum: Suatu Pengantar*. Yogyakarta: Liberty, 1999.
- Moh. Mahfud MD. *Konstitusi Dan Hukum Dalam Kontroversi Isu*. Jakarta: Rajawali Pers, 2009.
- . *Membangun Politik Hukum, Menegakkan Konstitusi*. Jakarta: Rajawali Pers, 2011.
- . *Perdebatan Hukum Tata Negara*. Jakarta: Rajawali Pers, 2010.
- . *Politik Hukum Di Indonesia*. Depok: Rajawali Pers, 2018.
- Na'imah, Hayatun, and Bahjatul Mardhiah. “Perda Berbasis Syari'ah Dan Hubungan Negara-Agama

- Dalam Perspektif Pancasila.” *Mazahib* 15, no. 2 (2016). <https://doi.org/10.21093/mj.v15i2.623>.
- Nasution, Bahder Johan. “Kajian Filosofis Tentang Hukum Dan Keadilan Dari Pemikiran Klasik Sampai Pemikiran Modern.” *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 11, no. 2 (2016). <https://doi.org/10.19105/al-ihkam.v11i2.936>.
- Nazriyah, Ni’matul Huda & R. *Teori Dan Pengujian Peraturan Perundnag-Undangan*. Bandung: Nusa Media, 2011.
- Nowak, Manfred. *Introduction to the International Human Rights Regime*. Leiden: Martinus Nijhoff Publisher, 2003.
- Nurlinah, Rizkika Lhena Darwin, and Haryanto. “After Shari’ah: Islamism and Electoral Dynamics at Local Level in Indonesia.” *Global Journal Al-Thaqafah* 8, no. 2 (2018).
- “Perancangan Peraturan Daerah.” Accessed April 21, 2021. <https://www.jimlyschool.com/diklat/perancangan-peraturan-daerah/>.
- “Qanun Aceh Nomor 9 Tahun 2013 Tentang Perubahan Atas Qanun Nomor 8 Tahun 2012 Tentang Lembaga Wali Nanggroe,” n.d.
- “Qanun Nomor 5 Tahun 2011 Tentang Tatacara Pembentukan Qanun,” n.d.
- “Qanun Nomor 8 Tahun 2012 Tentang Lembaga Wali Nanggroe,” n.d.
- Rahardjo, Satjipto. *Ilmu Hukum*. Bandung: PT. Citra Aditya Bakti, 1996.
- Rahman, Dahlan A., and Nuriman Abdullah. “Dynamics and Prospect of Wali Nanggroe Institution Post-Conflict in Aceh: Analysis of Policy and Educational Development.” In *Proceeding of MICoMS*, Vol. 1, 2018. <https://doi.org/10.1108/978-1-78756-793-1-00021>.
- S, Maria Farida Indrati. *Ilmu Perundang-Undangan 1, Jenis, Fungsi Dan Materi Muatan*. Yogyakarta: Kanisius, 2007.
- . *Ilmu Perundang-Undangan 2, Proses Dan*

- Pembentukannya*. Yogyakarta: Kanisius, 2007.
- Samekto, FX Adji. *Ilmu Hukum Dalam Perkembangan Pemikiran Menuju Post-Modernisme*. Lampung: Indep Publishing, 2012.
- Schuck, Bob Sugeng Hadiwinata & Christoph, ed. *Demokrasi Di Indonesia Teori Dan Praktik*. Yogyakarta: Graha Ilmu, 2010.
- Serambinews.com. "Giliran ABAS Tolak Qanun Wali Nanggroe," 2012. <https://aceh.tribunnews.com/2012/11/16/giliran-abas-tolak-Qanun-wali-nanggroe>.
- Sitabuana, Tundjung Herning. *Berhukum Di Indonesia*. Jakarta: Konstitusi Press, 2017.
- Soimin. *Pembentukan Peraturan Perundang-Undangan Negara Di Indonesia*. Yogyakarta: UII Press, 2010.
- Tempo.co. "Aktivis Gayo Merdeka Tetap Tolak Wali Nanggroe - Nasional Tempo.Co," 2013. <https://nasional.tempo.co/read/537671/aktivis-gayo-merdeka-tetap-tolak-wali-nanggroe>.
- Tribunnews.com. "Mendagri: Qanun Wali Nanggroe Langgar UU Pemerintahan Aceh," 2013. <https://www.tribunnews.com/regional/2013/06/10/mendagri-Qanun-wali-nanggroe-langgar-uu-pemerintahan-aceh>.
- "Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan," n.d.
- Wijayanti, W. "Eksistensi Undang-Undang Sebagai Produk Hukum Dalam Pemenuhan Keadilan Bagi Rakyat (Analisis Putusan Mahkamah Konstitusi Nomor 50/Puu-X/2012)." *Jurnal Konstitusi* 10, no. 1 (2013): 179–204. <https://doi.org/10.31078/jk>.
- Yunandar, M Aris, Effendi Hasan, and Taufik Abdullah. "Pro Kontra Lembaga Wali Nanggroe Dan Potensinya Terhadap Konflik Disintegrasi Suku Di Aceh." In *Seminar Nasional Riset Inovatif II*, 2014.