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ADAT INSTITUTIONS IN ACEH GOVERNMENT: A CONSTITUTIONAL PERSPECTIVE

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Abstracts

The existence of adat (customary law) in Indonesia becomes a source of value for the survival of the nation. Each region in Indonesia has different adat that can be used as a reference for the form of governmental system in Indonesia. The 1945 Constitution has recognized the existence of adat government that consisting of various forms of adat that have been adopted long before the 1945 Constitution existed. The existence of adat cannot be separated from national and Islamic values. This research was conducted to find out form of adat institution in Aceh and how the integration of such adat governance in local government system based into national law. Thus, to achieve the objectives, this study was conducted by normative juridical research method with historical approach and comparison with other indigenous peoples in Indonesia.

Keywords: constitution; adat government; Aceh

INTRODUCTION

Adat (custom) in Indonesia is an integral part of the national constitutional system. Adat became the forerunner of the existence of this state since the character of the nation is formed from customs that have been built by each region. Adat in every region in Indonesia varies, usually in accordance with the values left by the ancestors in the region. The existence of adat based on Islamic values is not much in Indonesia, namely Aceh, Minangkabau, Gowa, and Banten. This because basically every custom is based on the ancestors who come to them and the combination of the value of immigrants. Nevertheless, the existence of religion as a value understood by society does not exclude the sense of nationalism and the value of nationality that coincides with religious values.

Aceh, for example, is being a unique province with religious community character compared to other regions in Indonesia. Aceh cannot be separated from the history of The Sultanate of Aceh Darussalam, that cannot also be separated from the Islamic Kingdom of Lamuri. Sultan Munawwar Syah who is a famous sultan in

the Islamic Kingdom of Lamuri is the ancestor of Sultan Iskandar Muda.¹ The uniqueness of the Kingdom of Aceh is with their legal source based on Islam with its legal products in the form of qanun. Qanun became a legal product that is different from the regional regulations in general because the position is level with the law when made by the Governor of Aceh. Qanun is a Regulation of Law similar to Regional Regulations governing the governance and community life in Aceh Province.² This uniqueness does not make the qanun a new constitution for Aceh Province because, in a unitary state, the constitution or the constitution is known only at the central level. While in the regions or in the province, there is no constitution itself. According to Wolhoff, in areas within the unitary state, which serves as a constitution for them is the Law on Regional Government contained within the unitary state.³ Thus, qanun can be regarded as local law as local law is seen as a local law as well.

Although its government is based on Islam the Aceh government also implements democratic principles, as in other areas. The democratic government run in the Aceh government within the framework of the unitary state of the Republic of Indonesia is a manifestation of the people's sovereignty embodied in the 1945 Constitution and reflected in the term government of the people, by the people and for the people.⁴ The form of government is mentioned by the term sovereignty which refers to the concept of supreme power that can be limited or divided. This means that in the hands of those sovereigns are always held restrictions by law and the constitution as a product of an agreement with the owners of the sovereignty itself.⁵ This democratic practice can be seen from the election of a democratically elected Aceh Governor with direct elections.

The concept of democracy that is implemented in Indonesia is a democracy related to people's sovereignty. However, its relationship with the sovereignty of the people does not necessarily make it a direct government, but instead it is currently used also is representative (representative government) although in general practice in Indonesia embraces both, directly or representative. Democracy recognizes the power of the majority (majority rule) in which power is in the hands of those who in quantity get the most votes. Even John Locke states that the people acting as a body by majority rule, have greater legitimacy than the alternative

¹ Denys Lombard. *Kerajaan Aceh: Zaman Sultan Iskandar Muda* [Kingdom of Aceh: Sultan Iskandar Muda Era]. Jakarta: Kepustakaan Populer Gramedia, Jakarta, 2014, p. 56.

² See Aceh Government, 'Qanun 2014', downloaded from <http://www.acehprov.go.id/hukum/read/59/qanun-2014.html> on 26 March 2017.

³ Jimly Ashshiddiqie, *Perihal Undang-Undang* [About the Laws], Jakarta: Konstitusi Press, 2006), p. 92.

⁴ Soeprapto, *Pancasila*, (Jakarta: Konstitusi Press, 2013), pp. 17-18.

⁵ Jimly Ashshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, [Constitution and Constitutionalism], (Jakarta: Konstitusi Press, 2005), pp. 134-136.

individuals or arbitrary powers acting unilaterally.⁶ This confirms the existence of legitimacy for those who move on behalf of the people who support the majority in comparison with the power of the individual.

Based on this democracy system, it has formed the idea division of power that divided into three branches of the executive, legislative and judiciary. In the field of the executive, the people have the power to enforce the rules he himself stipulates. in the jurisdiction of the people who have the highest authority to make decisions. This democratic manifestation requires legal instruments, effectiveness, and leadership exemplary and support of community education system and socio-economic welfare base that develops more evenly and equitably. Therefore, the principles of democracy and rule of law are held together.⁷

Meanwhile, the 1945 Constitution implicitly contains two values, namely unitary value and decentralization. The unitary value is expressed based on the view that Indonesia will not have any other government entity within it that is of a state. In addition, all state institutions in each branch of power must adhere to the same constitution of the 1945 Constitution so that it is not allowed to refer to other constitutions.⁸ This means that the sovereignty of the people mentioned in the 1945 Constitution will not be divided into small units of local government. While the value of decentralization is realized with the transfer of authority to administer government affairs which have been submitted or recognized as a domain for the household of the autonomous region.⁹

In Province of Aceh, it acknowledges that adat as a value still exists in the region and in the government. Based on Law of Aceh Government (Law Number 11 Year 2006), there are institutions called of Wali Nanggroe and Tuha Nanggroe as a symbol for the preservation of the life of adat, culture and community unification in Nanggroe Aceh Darussalam Province. These institutions are the highest customary leadership institution in Aceh Province. The Aceh Traditional Assembly, which previously served as the executor of adat (customary) or cultural life in Aceh, currently becomes the Functional Assembly under the umbrella of Wali Nanggroe Institution. Adat institutions are not political institutions within the Aceh Province but integrate with the provincial government.

In historical perspective, the implementation of adat values in Aceh current provincial government cannot be separated from the historical values of the Aceh Darussalam Sultanate that embraces the rule of Islamic law. Aceh local government posses several privileges, namely the application of Islamic law and specialized local government democracy that includes direct local election, local political party

⁶ John Locke, *Two Treatises of Government and A Letter Concerning Toleration*, edit by Ian Shapiro, (New York: Yale University Press, 2003), p. 329.

⁷ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme*, p. 142.

⁸ Janedjri M. Gaffar, *Demokrasi dan Konstitusi; Praktek Ketatanegaraan Indonesia Setelah Perubahan UUD 1945*, [Democracy and Constitution: Indonesian Constitutional Practice After the Amendment of 1945 Constitution], (Jakarta: Konstitusi Press, 2013), p. 117.

⁹ Andy Ramses M dan La Bakry, *Pemerintahan Daerah di Indonesia*, [Local Government in Indonesia], (Jakarta: Masyarakat Ilmu Pemerintahan Indonesia dan Pemrov DKI, 2009), p. 223.

and adat institutions.¹⁰ Besides that, autonomy in Aceh is also run based on the implementation of adat and cultures, so that adat institutions are formed to supervise the implementation of adat and culture in Aceh Province.

This paper, as a normative based research with historical approach, is trying to explain about adat governance in Aceh, particularly in the past and nowadays under the Unitarian state of Republic of Indonesia.

GOVERNMENT IN PAST ACEH

According to historical record, Islam was established in Aceh region - where is the northern area di Sumatran- along with Arabic and Indian traders, approximately in 800 AD. The first Islamic kingdom in the region, Perlak, was established within in the year 804. Indian and Arabic texts from the ninth century also mention this area as a part of their trading routes.¹¹ Based on the other record, there are also suggestion that the Islam established in Aceh region around the 12th or 13th centuries. Nevertheless, these various opinions prove that the entry of Islam is the beginning of the history of the reign of the kingdoms based on Islam in Aceh in the 13th century and later developed into a kingdom that advanced in the 14th century and growing its influence on Southeast Asia.¹²

The uncertainty of the timing of Islam's entry into Aceh also affected about determination when was the Islamic kingdom first governed. According to some historical record, it was at the beginning of the seventh or eighth century, the reign of the Islamic kingdom in Aceh began when the Peureulak Islamic empire ruled with its first sultan was Saiyid Maulana Abdul Aziz with the title of Sultan Alaidin Saiyid Maulana Abdul Aziz Shah who began reigning at 840 AD. This kingdom was capitalized at Bandar Peureulak which was later changed to "Bandar Khalifah". Meanwhile, according another version of historical record, Islamic in Aceh around the 12th or 13th century, when the first kingdom that embraced Islam is the Kingdom of Aceh Darussalam.¹³ At the beginning, the flow of Islam that entered the Peureulak Kingdom was a Shi'ite sect. After that, during the reign of Sultan Alaidin Saiyid Maulana Abas Syah the Islamic development based on Ahlussunnah Wal Jama'ah. The entry of this new stream led to a civil war between the two groups that caused the Peureulak Islamic Kingdom did not have a king for two years.¹⁴

¹⁰Baogang He and Anthony Reid, Special issue Editors' introduction: *Four Approaches to the Aceh Question*, Asian Ethnicity, 2004 Oct, 5:3, 293-300.

¹¹Damien Kingsbury. *The Free Aceh Movement: Islam and democratisation*, Journal of Contemporary Asia, 2007 May, 37:2, 166-189.

¹²Badruzzaman Ismail, *Sistem Budaya Adat Aceh dalam Membangun Kesejahteraan: Nilai Sejarah dan Dinamika Kekinian*, [Adat Culture Aceh System in Developing Prosperity: History and Nowadays Dynamics], (Aceh: Majelis Adat Aceh, 2008), p. 8.

¹³Ali Hasjimi, *Kebudayaan Aceh dalam Sejarah*, [Aceh Culture in History], (Jakarta: Penerbit Beuna, 1983), p. 45.

¹⁴*Ibid.*

During the reign of Peureulak Kingdom, there was also an embryo of the Kingdom of Samudra / Pase which started from various small kingdoms led by the king who titled "Meurah", like Jeumpa, Samudra, and Tanoh Data. The Tanoh Data area is then the first time the Islamic Ocean of Samudra / Pase was built by Meurah Khair or Maharaja Mahmoud Shah at 1042-1078 AD. In the days of the Samudra / Pase Kingdom, many scholars came from Mecca, then from Malabar and Sarkasih. Some of them, namely Qaidul Mujahideen Maulana Naina bin Naina al Malabary, was appointed by Sultan Al Kamil as Commander of the Royal Army. In addition, the Sultan also appointed an ulama to the Prime Minister, namely Qutbulma'aly Abdurrahman Al Pasy and Sheikh Ja'kub Blang Raya became the ruler of the kingdom, preachers and advisors.¹⁵

The Islamic Kingdom of Samudra / Pase was at the time was ruled based on governmental state structures which consisted of -what nowadays known as the executive, federative and judiciary power. The cabinet ruled by Sri Kaya Said Khiatuddin as Prime Minister. The Supreme Court, led by the Grand Mufti Said Ali bin Ali Al Makarany. The Ministry of Foreign Affairs, whose minister is Bawa Kaya Ali Hisamuddin Al Malabary. In such structure, there is a separation of powers between the executive and the judiciary. In this case, the role of the ulama is important because it also acts in the judicial process.¹⁶

In another historical record, according to Boestan As-Salatin, the first Sultan of Aceh was Sultan Ali Mughayat Syah who also established the Kingdom of Aceh Darussalam in 1506 AD. It was the time for Aceh Darussalam reached its prime, especially during the time of Sultan Iskandar Muda. At that time, a constitutional system of government has been formed. The constitution called Qanun Meukuta Alam or Qanun al-Alsyi, asserted that the Qur'an, Al-Hadith, Ijma Ulama Ahlussunnah, and Qiyas became the source of law for the life of the people. These four sources of law are then used as the basis for forming laws consisting of four kinds, that is law, customary law, reusam, and qanun.¹⁷

The acceptance of the Acehnese for Islam has an impact on the appreciation of Islam as a guideline for life, which is reflected in the cultural life of Aceh. Like the people of Minangkabau who have the adage "Adat Basandi Syarak, syarak basandi kitabullah", Acehnese also has a proverb that is almost similar: "Adat Poeteumerrehom, Reusam bak Lakseumana" which means "customary law in the hands of the government from the embodiment of Islamic law in the practice of daily life day of the Acehnese ". This made Aceh to be the stopped by place for

¹⁵ *Ibid.*, p. 48.

¹⁶ *Ibid.*, p. 49.

¹⁷ Raden Hoesein Djajadiningrat, *Kesultanan Aceh Suatu Pembahasan tentang Sejarah Kesultanan Aceh berdasarkan Bahan-Bahan yang Terdapat dalam Karya Melayu*, [Aceh Sultanate, A Discussion About History of Aceh Sultanate Based on Karya Melayu], (Aceh: Depdikbud, 1982/1983), p. 11.

Muslim pilgrims who intended to go to Mecca, making Aceh best known as the Veranda of Mecca.¹⁸

Qanun Al-Asyi or also can be called by the Custom of Meuketa Alam, derived from Al-Quran, Hadith, Ijma 'Ulama and Qiyas consist of the law in Aceh Darussalam and powers within the state. The legal power or the judiciary held by Kadhi Malikul Adil. The adat authority (executive) held by Sultan Malikul Adil. The power of forming legislation (qanun) held by the Majelis Mahkamah Rakyat (People's Council). Meanwhile in case of emergency, there is a 'reusam power' (conduct emergency law) held by the Sultan as the supreme ruler at a time when the state is at war. Based on the Qanun Al Asyi in ruling the state, the King and Ulama should be 'duumvirate'.

The Sultanate of Aceh Darussalam also established the mechanism of representation called 'Syuro' as one of the important principles in the state that put forward the principle of representation in decision-making, similar the evolving mechanisms of democracy in the western world. The difference is in the role of ulama (scholars) that is very important to interpret the Islamic law. To implement the principles of Syuro, the kingdom established the establishment of three institutions: (a) Balai Rong Sari, directly led by Sultan Imam Malikul Adil and his Deputy Kadhi Malikul Adil, (b) Balai gedang, led by Wazir Mu'adhdham Prime Minister and its members consist of eight hulubalang and seven ulama, (c) The People's Assembly consisting of 73 members.

Islamic values are also can be seen clearly in the community of Gampong, especially with the symbols of the Masjid (mosque) and Meunasah. Meunasah became the center and main institution as a center for the study and development for adat and cultural matters, meanwhile the mosque focuses on religious life while. Apart from Meunasah and Mosque, Islamic values are seen from the presence of Imam (leaders) Meukim who resolved the dispute and decided or established the law in the case of adat dispute. Though initially Imam Meukim is a leader in mosque, but he became a place to resolve the adat dispute.¹⁹

There also a division of power in between the Sultan as a king, ulama and ulebalang. Ulama in the adat government became an integral part because adat is based on Islam as the basis of life. The tasks of ulama in adat government in Aceh are as follows among others is become advisor to the Sultan / Government in matters related to religion, become Kadhi Sultan in deciding cases (law) in the state, and become a judge to man and women who want to get married or who want to divorce. In some condition, ulama run diplomatic and tactics, compiling and keeping the state regulations ordered by the Sultan. Task of the ulama is to maintain and upholding the religion in the Acehnese indigenous people. In addition to religious matters, scholars also have a role in making the regulations of the country in accordance with the Sultan's orders. This shows the importance of the existence of the clergy beside the Sultan as the supreme ruler.

¹⁸Ali Hasjimi, *Kebudayaan Aceh Dalam Sejarah*, p. 69.

¹⁹*Ibid.*, p. 100.

In addition to the ulama, the Sultan was also assisted by 'ulebalang' who served in terms of government and state security. This institution shall keep and maintain public order in the state. It also executes all the orders of the Sultan in terms of arresting those who disbelieve the judgments of law and custom (Adat Meukuta Alam).

ACEH GOVERNMENT IN INDONESIAN CONSTITUTIONAL SYSTEM

In a unitary state, such as the Republic of Indonesia, the central government runs the government based on uniformity. The central government guarantees the unity of the unitary state and ensures equal service to all people throughout the region, so many experts tend to think the unitary state is centralistic.²⁰ The essence of a unitary state is the sovereignty of an undivided state including the sovereignty of the legislator who is held only by the central government.²¹

The Unitary State of the Republic of Indonesia is administered by a system of decentralization of authority, in which the central government holds only a few principal powers but the rest is given to local governments to regulate it. Law Number 32 Year 2004 regarding Local Government, in the Elucidation section, states that the Republic of Indonesia as a unitary state that embraces the principle of decentralization in the administration of its government, by providing opportunities and flexibility to regions to organize regional autonomy. In terms of relationship between the Central Government and Local Government, the Central Government shall conduct guidance and supervision of the Regional Government.

Indonesia consists of various ethnic groups, languages, customs, cultures and mindsets that inhabit different regions as well. The diversity of its people is determined by the history of the formation of each region. Development from the central government to local government needs to be done so that programs made by regions in the form of regional regulations, regional decisions or other regional policies can harmonize and in line with the central government's goals.

In addition, the pattern of relationship between the center government and the regional government within the framework of the unitary state is shall be a supervisory relationship. Soehino argues that the relationship between the Central Government and the Regional Government is a supervisory relationship, not a relation between subordinates to superiors or relations in running the government as well as the relationship between the administrative government or the local government with the central government.²² Bagir Manan viewed that supervisory

²⁰ Bagir Manan, *Hubungan Antara Pusat dan Daerah Menurut UUD 1945*, [Relation Between Central and Local According 1945 Constitution] (Jakarta: Pustaka Sinar Harapan, 1994), p. 17.

²¹ C. F. Strong, *Modern Political Constitutions*, (London: Sidgwick & Jackson Limited, 1963), p. 80.

²² Soehino, *Perkembangan Pemerintahan di Daerah*, [Development of Regional Government], (Yogyakarta: Liberty, 1995), p. 147

is necessary but cannot be executed so tightly as it will be reducing freedom of decentralization or even possibly disconnected.²³

Aceh Province, the people and the adat are dominated by the doctrine of Islam, thus it makes the region of Aceh into an area that the people are patterned by Islamic thoughts. It cannot be denied because based on the history of the Sultanate of Aceh Darussalam is Islamic kingdom. Therefore, it is undeniable also the desire of the people of Aceh who want to run the Islamic Sharia, which formally stated as one of the features of Aceh as stipulated in Law Number 11 Year 2006 regarding Aceh Government.

The Aceh Government basically is a regional government equal to other provincial governments within the framework of the Unitary State of the Republic of Indonesia. The Government of Aceh established based on the Government System of the Unitary State of the Republic of Indonesia which, according to the 1945 Constitution of the State of the Republic of Indonesia, that recognizes and respects regional government units of a special or special nature. Although given such privileges, the implementation of the Government of Aceh just like other provincial governments. The provincial government carried out by the Governor of Aceh and a representative institution called Dewan Perwakilan Rakyat Aceh (House of Representatives of Aceh). The current government of Aceh is a continuation of the Provincial Government of the Special Region of Aceh and the Provincial Government of Nanggroe Aceh Darussalam which was previously stipulated in Law Number 49 Year 1999 on the Implementation of Special Features of Aceh Province.

Back to the 1959, as a background, there's Decree of the Prime Minister of the Republic of Indonesia Number 1/Misc/1959 concerning the Specialties of Aceh Province that includes religion, customs and education. These privileges strengthened by Law Number 22 Year 1999 on Regional Government, even accompanied by additional role of ulama in determining regional policy.

According to Law 22 Year 1999, it can be seen how the accommodation of the three aspects. In regulating religious life, the government can establish religious institutions and recognize existing religious institutions. In addition, the region may form an entity whose members consist of independent scholars and consider regional policy, including the areas of governance, development, and society as well as the Islamic economic. This proves that the role of ulama is highly respected in terms of government at that day, and furthermore that Aceh can accommodate the relationship between Islam and government. In the aspect of the implementation of adat life, the government may establish various policies to empower, preserve, and develop adat and adat institutions which is imbued and in accordance with Islamic Sharia. Local governments can also establish adat institutions and recognize adat institutions that have been established in accordance with their respective positions at every level of government. In the implementation of education, local governments are entitled to develop and regulate various types, paths, and levels of education and add material local content in accordance with Islamic Sharia. The

²³Bagir Manan, *Hubungan...*, p.89.

implementation of this education also needs to harmonize with the National Education System.

The constitutional journey of the Republic of Indonesia places Aceh as a special and special regional government unit, linked to identity and character based on the history of Acehnese people who have Islamic identity. A view of life based on Islamic Sharia that gave birth to a strong Islamic culture on jihad or war against colonization²⁴. So, it's undeniable that Aceh is one of the capital areas for the struggle in seizing and maintaining the independence of the Republic of Indonesia based on Pancasila and the 1945 Constitution. Such life, requires the implementation of formal enforcement shariah 'at Islam. The enforcement of Islamic Sharia is carried out based on the personality of Islam to every person in Aceh without distinction of citizenship, status and status within the territory according to the boundaries of the province of Aceh.

State acknowledgment of the special features and specificity of Aceh was given through Law No. 11 of 2006 on the Government of Aceh. The Aceh Government Law is inseparable from the Memorandum of Understanding between the Government and the Free Aceh Movement signed on 15 August 2005. The MoU is viewed as a form of reconciliation with dignity towards sustainable social, economic and political development in Aceh.

The Memorandum of Understanding (MoU) of Helsinki agreed by the government of Indonesia and also Gerakan Aceh Merdeka (GAM) or Free Aceh Movement basically contains an agreement consisting of various things, such as about the implementation of governance to be implemented in Aceh, amnesty to GAM members and also the process of reintegration of GAM members with the community, security arrangements, the establishment of the Aceh Monitoring Mission (AMM), and dispute resolution mechanisms if after the Helsinki MoU has been signed there are problems with implementation.²⁵ The document was signed by Hamid Awaludin as the Minister of Justice and Human Rights of the Republic of Indonesia and Malik Mahmud as the representative of GAM leaders, while President Ahtisaari served as a witness.

The efforts to resolve the conflict between the Indonesian government and GAM through the Helsinki MoU are based on three frameworks, namely demobilization, disarmament, and reintegration. Demobilization means the reduction of armed forces or combatants from disputing parties to the arrangement of armed forces. Subsequently, a disarmament, or in the case of the Aceh conflict, uses the term decommissioning, which is intended to reduce combatants to non-combatants and to gradually reduce the number of weapons circulating in conflict areas. The latter is reintegration, which is also part of the process of transforming

²⁴ Damien Kingsbury. *The Free Aceh Movement: Islam and Democratisation*, Journal of Contemporary Asia, 2007 May, 37:2, 166-189

²⁵ Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement, http://www.acehpeaceprocess.net/pdf/mou_final.pdf, access in 16 August 2017.

combatants to re-acceptance in the public.²⁶ This stage is also known as DDR (demobilization, disarmament, reintegration).

One of the highlights of the Helsinki MoU related to this research is on the part of governance in Aceh. It is said that an institution called Lembaga Wali Nanggroe will be implemented as an institution that will be included in the Aceh governance section. However, the MoU does not mention further the clear function and authority of the Lembaga Wali Nanggroe. In politically practice the existence of Lembaga Wali Nanggroe is to be occupied by former GAM leaders. This was done somewhat by former GAM leaders retaining their place and cultural position in Aceh society. By law, Wali Nanggroe Institution is regulated in Aceh Government Law Number 11 Year 2006.

The Aceh Government Law contains 273 articles which essentially have material specificities and features of Aceh. However, in terms of governance arrangements, most of them are like Law Number 32 Year 2004 regarding Regional Government. In the New Order era government, one characteristic of Aceh's governance structure is that it is not enforced by the enforceability of Law No. 5 of 1979 on Village Governance. The structure of the mukim administration is uniformed by the function of the village, the same thing happens in the nagari structure in Minangkabau. Nevertheless, the role of mukim in the Acehnese indigenous people is still ongoing. This is evident in the presence of Imam Mukim in the village which has a role in solving various problems in *gampông-gampông*.

The *gampông* and mukim issues are ultimately recognized by the enforcement of the Aceh Government Law incorporated into the governance structure of Aceh. Imam Mukim as the head of mukim-level government serves as a bridge between the government and the adat prevailing in the local community. In the context of spatial planning, mukim should be used as the smallest unit in spatial planning.

ADAT INSTITUTION IN ACEH GOVERNMENT

Acknowledgment of Aceh's privileges, one of which is realized by the existence of customary institutions formed as part of the Aceh government. Some of these institutions are Wali Nanggroe Institution, Majelis Adat Aceh (Aceh Adat Council) and Majelis Permusyawaratan Ulama (Ulama Consultative Council). The existence of these institutions at the same time reflects the Islamic values of indigenous peoples of Aceh who have lived since the Sultanate of Aceh Darussalam in which the scholars, statesmen and adat leaders, together take care of the government.

According to the Law on Aceh Government, Article 96, the Wali Nanggroe Institution is an adat leadership as an integral, independent and authoritative community that guides and supervises the organization of customary institutions, customs, and other degrees and rituals. This institution is not intended as a political

²⁶Hamdan Basyar, et al., *Aceh Baru: Tantangan Perdamaian dan Reintegrasi*, [New Aceh: Challenge of Peace and Reintegration] (Jakarta: P2P LIPI dan Pustaka Pelajar, 2008), p. x.

institution nor an institution that runs the government in Aceh, but works within the adat domain such as giving honorary titles or degrees of custom to individuals or institutions, with certain conditions. The Wali Nanggroe Institution as referred to in paragraph (1) is headed by a personal and independent Wali Nanggroe. Further regulation of this institution is based on Qanun Aceh Number 8 Year 2012 on Wali Nanggroe Institution, as amended by Qanun Aceh Number 9 of 2013.

The existence of the Wali Nanggroe Institution is derived from the Wali Nanggroe which is termed to sultan's deputy in performing the Sultan's duties. The term is already known in the Sultanate of Aceh in the 19th century. Wali Nanggroe at that time was a sultan who was considered not worthy to lead due to the age of the sultan is still very young. After the collapse of the Aceh Sultanate there was no longer Wali Nanggroe, but after the reconciliation in Helsinki in August 2014 the term "Wali Nanggroe" institution was mentioned as one of the points of the Indonesian government's agreement with the Free Aceh Movement (GAM). The Wali Nanggroe institution has no connection with the Sultanate of Aceh, the term is borrowed in the agreement as an accommodation of traditional or customary values provided by the Indonesian government to Aceh. As stipulated in the Law on Governing Aceh and in the Qanun on the Wali Nanggroe Institution, the institution serves as a symbol of unifying the people of Aceh.

Another adat institution established under the Aceh Governance Law is the Majelis Adat Aceh (Aceh Traditional Assembly). This institution is given the authority to manage customary law in Aceh. Majelis Adat Aceh was first established in 1963. The Acehnese Adat Council at that time and which still exists today oversees reviving the adat law enforcement procedures in Aceh. Like Wali Nanggroe Institution, this institution lives after the Memorandum of Understanding of Peace between the Free Aceh Movement and the Government of Indonesia.

The existence of the Majelis Adat Aceh, among others, is to foster and develop Acehnese adat institutions, fostering and developing Acehnese traditional figures, fostering and developing Acehnese customary life, and preserving customary values based on Islamic law. The Majelis Adat Aceh has branches in various regions of Aceh to help communities solve the problem by Adat. It worked based on Qanun No. 3 of 2004 on the Establishment of Organizational Structure and Work Procedure of the Aceh Traditional Council (MAA), Qanun Number 9 of 2008 on the Development of Indigenous Life and Customs and Qanun Number 10 Year 2008 on Customary Institutions.

In addition to the representation of adat, in the government of Aceh also formed the ulama representation body of the Majelis Permusyawaratan Ulama. This certainly cannot be separated from the development of kingdoms and Islamic societies in Aceh where the role of ulama cannot be separated from the government. The clergy became the people's liaison with the king and became a source of reference in providing religious or legal knowledge. After the reign of the Islamic kingdom ended in Aceh, the role of the ulama is still exist.

The process of institutionalizing ulama in Aceh began when Law No. 44 of 1999 on the Implementation of Special Feature of Aceh Province was enacted. In Article 9 paragraphs (1) and (2) of the Act, it is mentioned that a body consisting

of scholars with functions to provide consideration to regional policy, including in the field of governance, development, and society as well as the Islamic economic order.

Following the enactment of the Act, in 2001 a Majelis Permusyawaratan Ulama (MPU) was established. This MPU is a transformation of the Indonesian Ulema Council (MUI) in Aceh, as well as the mandate of Law Number 44 Year 1999. However, the function and position of the MPU is very different from that of the MUI, mainly because of the role of the MPU in the Aceh government.

In the Law of Government of Aceh Number 11 Year 2006, MPU is given the function to determine fatwa which can be one of consideration to local government policy in the field of government, development, community development, and economy. Therefore, in the implementation of the Government of Aceh, the MPU plays a role in giving fatwas both requested and unsolicited to the issues of governance, development, community development, and economics as well as giving direction to differences of opinion on society in religious matters.

Currently MPU is working based on Qanun of Nanggroe Aceh Darussalam Province Number 9 Year 2003 regarding Working Relationship of Majelis Permusyawaratan Ulama with Executive, Legislative and Other Institution, Qanun Aceh Number 5 Year 2007 on Organizational Structure and Working Procedures of Dinas, Regional Technical Institute and Provincial Daerah Institution NAD, Aceh Qanun Number 2 Year 2009 on the Consultative Assembly of Aceh Ulama and Pergub Aceh Number 33 Year 2008 on the Organizational Structure and Working Procedure of the Secretariat of the Aceh Privileges Institution.

CONCLUSION

The adat government in Aceh is strongly influenced by Islamic values. This is inseparable from the long history of society and government that once lived in Aceh that made Islam its identity. The existing government institutions in indigenous peoples in Aceh reflect Islamic values in which the role of scholars with statesmen is important in the implementation of state and government. In the Kingdom of Aceh Darussalam during the reign of Sultan Iskandar Muda there are institutions consisting of scholars, experts and statesman of Balai Rong Sari, Balai Gedang and Majelis Mahkamah Rakyat. In the smallest unit of society in *gampông* or *mukim*, also seen the role of the scholars in accompanying the *keuchik*. Moreover, it is also clear that living law - referred to as Qanun, is sourced from the law of the Qur'an, the Sunnah of the Prophet Muhammad, and the *ijma* and *ijtihad* of the scholars.

The recognition of Aceh's privileges by the central government, as set forth in Law Number 44 Year 1999, is further stipulated in Law Number 11 Year 2006, including recognition to run the Aceh government in accordance with the Acehnese customs and Islamic law. Therefore, in the execution of the Aceh government, in addition to the Governor and the House of Representatives of Aceh - as is the case with other local government apparatuses, there are also institutions that reflect the customary functions and functions of ulama, namely Wali Nanggroe Institute, Aceh

Traditional Assembly and Assembly Deliberation Aceh. In addition to being recognized by national legislation, the existence of these institutions is further regulated in the Aceh Qanun (regional regulations).

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