



Aceh Autonomy Policy and Qanun Post-Helsinki Agreement

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<http://dx.doi.org/10.18415/ijmmu.v9i2.3639>

Abstract

This article that we compiled aims to describe the existing policies in the Province of Nanggroe Aceh Darussalam, especially the autonomy policy and Aceh qanun after the Helsinki agreement. Prior to this agreement, the people of Aceh still felt a conflict with the Indonesian government, especially GAM or the Free Aceh Movement, GAM itself felt that the Indonesian government was like committing theft of Aceh's existing sovereignty. Thus, GAM demanded that the Indonesian government return it. Therefore, there was an agreement between the government of the Republic of Indonesia and GAM, namely the Helsinki agreement in 2005. What can be questioned from this agreement is whether the existence of this agreement will reduce the conflict between GAM and the government of the republic of Indonesia, and whether decisions or the policies issued are appropriate and provide benefits or not for the people of Aceh. These policies will also be discussed with the qanuns that have been issued by the Aceh regional government as well as laws from the Indonesian government.

Keywords: *Autonomy Policy; Helsinki Agreement; Aceh Qanun; Regional Regulations*

Introduction

The Helsinki Agreement is a peace agreement between Indonesia and GAM that took place on August 15, 2005, facilitated by the Crisis Management Initiative (CMI) in Helsinki, Finland.¹ The signing of a Memorandum of Understanding (MOU) by the Government of the Republic of Indonesia, represented by Menkumham Hamid Awaludin with representatives from GAM, Martin Ahtisaari, who is the former President of Finland.² The agreement is a major change throughout the history of the conflict in Aceh.

¹ Reza Maulana, "Komunikasi Politik GAM-RI pada Perundingan Helsinki", *Jurnal Studi Komunikasi*, Vol.2 No.3 (November, 2018), 361.

² Alfon Kimbal, "Pemangunan Demokrasi Pasca konflik di Aceh", *Jurnal Ilmu Sosial & Pengelolaan Sumberdaya Pembangunan*, vol.3 No.XX (Januari-Februari 2016), 155.

The agreement resulted in several agreements as follows; a) Special Administration in Aceh, b) Implementing Human Rights, c) Amnesty and Reintegration of Ex-Combatants into Society, d) Security Arrangements, e) Establishment of Aceh Monitoring Mission, f) Dispute Resolution.³

The granting of special autonomy in the special region of Aceh is actually a form of asymmetric decentralization as a unique pattern of relations between the central and regional governments for special reasons. Through Law Number 11 of 2006 concerning the Government of Aceh, a region accepts the principle of the Unitary State of the Republic of Indonesia. State recognition of the privileges and specialties of the Aceh region.⁴ Also, the renaming of the Province of Nanggroe Aceh Darussalam was based on Law No. 18 of 2001, based on the background related to the conflict in Aceh, also related to reforms that demanded changes in all areas of social and state life, including the pattern of relations between the center and the regions.⁵

For the Provincial and District/City Governments of Aceh, it creates hope and opens opportunities for the growth of creativity, freedom as well as rediscovering self-identity and developing their territory. Both the legislative and executive institutions as well as the community component have given positive responses. The problem formulation of this research is how is the implementation of Qanun Jinayat or Aceh regional regulations after the Helsinki agreement?

Research Methods

The research method used in the preparation of this article uses the document study method where the data collection that our group has done has been or has been written by several other people or a secondary institution, in the form of letters, diaries, and reports.⁶

For the research stage this time, it begins with looking for sources from the internet, which can be in the form of interviews from the relevant sources, and can also be through online e-books or PDF files that contain material from the articles that we have compiled.

Discussion

The background of the emergence of GAM or the Free Aceh Movement is the dissatisfaction experienced by the people of Aceh, especially with what has been done by the central government which is considered to be unfair to the Acehnese people in all aspects of their lives, especially in the economic field. Starting from the abundance of natural resources owned by Aceh, massive exploitation began. However, what the central government did was considered unfair, because the distribution of the results from the exploitation was felt to be more beneficial to the central government and there were also many imbalances in terms of development at the center which prioritized over Aceh. Apart from that, there are also other factors.⁷

The problems faced between GAM and the central government are quite complex, especially in the economic and political fields as mentioned above. Investigate a calibration, this happened because

³ Citra Dea Gemala, Skripsi: “*Peranan Aceh Monitoring Mission Dalam Upaya Peace Building Di Aceh Tahun 2005-2006*”(Jakarta:UIN Syarif Hidayatullah Jakarta, 2014).

⁴ Heru Cahyono, “*Evaluasi Pelaksanaan Otonomi Khusus Aceh: Gagal Menyejahterakan Rakyat dan Syarat Konflik Internal*” Hlm.1

⁵ Adam Sani, “*Kewenangan Pemerintah Aceh Dalam Kerangka Otonomi Daerah*, Jurnal Ius Civile, Hlm.50

⁶ AF Azhari, MM Basri, F Muin. TRANSFORMATION OF MAQÂSHID AL-SYARÎ’AH (An Overview of the Development of Islamic Law in Indonesia). AL-IHKAM: Jurnal Hukum & Pranata Sosial 11 (1), 1-18

⁷ Eka Auliana Pratiwi, “*Campur Tangan Asing di Indonesia:Crisis Management Initiative Dalam Penyelesaian Konflik Aceh*”, *Jurnal Pendidik dan Peneliti Sejarah*, Vol.II No.2 (April 2019), 84

there was a continuation of DI/TII in Aceh which turned out to be unfinished, then gave rise to a new problem, namely GAM. One of them that has not been resolved is the desire for GAM to become independent and free from Indonesian territory or separatism. The emergence of GAM took place secretly because of an unpreparedness on the part of GAM if it had to be in direct opposition to the authorities, both central and local governments. GAM's existence began to be seen when they sent a letter stating the company's obligation in Aceh to pay taxes to them, although it was eventually rejected.

In its development, GAM has gone through three phases, namely the first phase (1976-1989), the second phase (1989-1998), and the third phase (post 1998).⁸

In Aceh Province, the asymmetric decentralization was carried out as a result of the peace agreement between the Free Aceh Movement (GAM) and the Government of Indonesia on August 15, 2005 or better known as the Helsinki MoU.⁹ The agreement was then set forth in Law no. 11 of 2006 concerning the Government of Aceh (UU PA). The PA Law has regulated that Aceh Province has specificity through the concept of asymmetric decentralization but is still within the framework of the national government system of the Unitary State of the Republic of Indonesia.

Prior to Law no. 11 of 2006 applies, there are several regulations governing the governance of the Aceh Province including Law no. 24 of 1956, Law no. 44 of 1999, Law no. 18 of 2001. Law no. 24 of 1956 concerning the Establishment of the Autonomous Region of Atjeh Province and Amendment to Regulations of the Province of North Sumatra has stipulated that Aceh and North Sumatra are separate autonomous regions and have the right to regulate and manage their own household.¹⁰

In terms of administering regional government for special regions, Law no. 44 of 1999 limits it to 3 (three) sectors related to social aspects, such as:

- 1) The administration of religious life,
- 2) The implementation of traditional life, and
- 3) Education administration. Furthermore, Law no. 18 of 2001 concerning Special Autonomy for the Special Region of Aceh as NAD Province contains regulations related to changes in the application of the principles of governance in Indonesia from centralization to decentralization. UU no. 18 of 2001 in principle regulates the specifics of government authority in Aceh Province which is different from the authority of other regional governments as regulated in Law no. 22 of 1999 concerning Regional Government and Law no. 25 of 1999 concerning the Financial Balance between the Central and Regional Governments.¹¹

Case The basic principles of this law are:¹²

1. Providing wider opportunities to manage and manage their own household, including economic resources, explore and empower natural resources, and human resources;
2. Develop initiatives, creativity and democracy, increase community participation, explore and implement social order in accordance with the noble values of Acehnese people's life;

⁸ Kurnia Jayanti, "Konflik Vertikal Antara Gerakan Aceh Merdeka di Aceh Dengan Pemerintah Pusat di Jakarta Tahun 1976-2005", *Konflik Vertika*, Vol.19, No.1 (2013), 50-51

⁹Natangsa Surbakti. Pidana cambuk dalam perspektif keadilan hukum dan hak asasi manusia di Provinsi Nanggroe Aceh Darussalam Jurnal Hukum Ius Quia Iustum 17 (3), 456-474

¹⁰ Desentralisasi Asimetris Politik Aceh dan Papua, diakses tanggal 10 Oktober 2021, <http://www.imparsial.org/publikasi/opini/desentralisasiasimetris-politik-aceh-dan-papua/>.

¹¹ Penjelasan Umum UU No. 18 Tahun 2001 001

¹² Penjelasan Umum UU No. 18 Tahun 2001hun

3. Optimizing the functioning of the Regional Representative Council of the Province of NAD in advancing the administration of government in the Province of NAD, and
4. Apply Islamic law in social life.

This law placing the emphasis on the implementation of the special autonomy of the NAD Province in the Regency and City or other names proportionally. This specificity is an opportunity for NAD Province to make adjustments to, a) structure; b) composition, c) formation and naming of local governments at lower levels to suit the spirit and spirit of the nation and state but still live in the noble values of the Acehese people.¹³

This law later became the forerunner to granting special autonomy to Aceh Province to run its own household. However, this law was later revoked with the enactment of Law no. 11 of 2006 concerning the Government of Aceh which is valid until now.

The provisions in Law No. 11 of 2006 concerning the need for norms, standards, procedures, and affairs of a national strategic nature to become the authority of the Central Government, are not intended to reduce the authority of the Aceh Government and District/City Governments in Aceh. it is a form of guidance, facilitation, determination, and implementation of government affairs carried out by the center because it is national in nature.¹⁴

After the enactment of Law no. 11 of 2006 concerning the Government of Aceh, the implementation of special autonomy in the Aceh region has been able to be implemented, but in its implementation not everything has gone well.¹⁵As the articles in Law no. 11 of 2006 concerning the Government of Aceh, which is directly implemented by the central government by issuing government regulations as implementing regulations is PP No. 20 of 2007 concerning Local Political Parties in Aceh, as the legal basis for the establishment of local political parties in Aceh, as well as the participation of independent candidates in the implementation of post-conflict local elections in Aceh.¹⁶

The provisions of the Helsinki MoU in Law no. 11 of 2006 concerning the Government of Aceh, is a manifestation of a political agreement to avoid the division of the two camps within the same country, the Special Region of Aceh related to the implementation of Islamic law. We can examine this in the dictum of several articles contained in Law no. 11 of 2006 concerning the governance of Aceh.¹⁷

As an example in Law no. 11 of 2006, chapter VI concerning the principles and forms and structures of government administration, it is stated that the administration of Aceh government and district/city governments is guided by the general principles of government administration, the number one being Islamic principles.¹⁸

The dictum states that the shari'ah implemented includes aqidah, shari'ah and morality, including worship, family law, civil law, criminal law, justice, education, da'wah, syiar and the defense of Islam.¹⁹ There is no separation between law and justice in ideal concept.²⁰

¹³ Penjelasan Umum UU No. 18 Tahun 2001

¹⁴ Zainal Aripin Implementation of Laws on the Criminal Jurisdiction System Using a Restorative Justice Approach (A Case Study at 'Aisyiyah Legal a Id Institute, Central Java). Law and Justice. 2020. Vol 5. No. 2. Pp 145-160

¹⁵ Ulya yaki," *Refleksi Memorandum of Understanding (MoU) Helsinki Dalam Kaitan Makna Otonomi Khusus Di Aceh*" Jurnal Konstitusi, Vol.11, No.2 (Juni 2014),hal 379

¹⁶ Pasal 75 sampai dengan Pasal 88 UU No. 11 Tahun 2006 tentang Pemerintahan Aceh

¹⁷ Ni'matul Huda, *Otonomi Daerah Filosofi, Sejarah Perkembangan Dan Problematika*. Yogyakarta: Pustaka Pelajar, cet. II, 2009, ha. 32

¹⁸ Pasal 20 UU No. 11 Tahun 2006

¹⁹ Fatkul Muin and Absori. *Pembangunan Hukum Islam di Indonesia (Studi Politik Hukum Islam di ndonesia dalam Kerangka Al-Masalih)*. urnal Ar-Risalah, Forum Kajian Hukum dan Sosial Kemasyarakatan. 2016. Vol. 15 Issue 2.pp 33

The same chapter also regulates that Muslims in Aceh are obliged to obey and practice Islamic law. And people who live or are in Aceh are obliged to respect the implementation of Islamic law.²¹ Furthermore, in chapter XVIII concerning the Islamic Shari'ah court which is carried out by a Syar'iyah Court, which consists of the Aceh Syar'iyah Court as the court of appeal and the District/Municipal Syar'iyah Court as the court of first instance.

The Syar'iyah Court has the authority to examine, adjudicate, decide, and resolve cases covering the areas of ahwal al-syakhsiyah (family law), muamalah (civil law), and jinayah (criminal law) which are based on Islamic Shari'ah with the procedural law stipulated based on the Qanun.²²

Conclusion

The Autonomy Policy Implemented in the Province of Nanggroe Aceh Darussalam in Aceh Province, an asymmetric decentralization was implemented due to the peace agreement agreement between the Free Aceh Movement (GAM) and the Government of Indonesia on August 15, 2005 or better known as the Helsinki MoU. The PA Law has regulated that Aceh Province has specificity through the concept of asymmetric decentralization but is still within the framework of the national government system of the Unitary State of the Republic of Indonesia.

It was stated that the granting of special autonomy to Aceh was not only the granting of rights but also constitutional obligations aimed at the welfare of the Acehnese people. independent and has the right to manage and manage his own household. based on the Qanun.

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²⁰ Syaifuddin Zuhdi. 2021. Transcendental Justice Law: The Relation of Law and Justice, *Journal of Trancendental Law*, Vol. 3, No. 1, pp 30-49

²¹ Pasal 126 Ayat (1) dan (2) UU No. 11 Tahun 2006

²² Pasal 128 sampai dengan Pasal 137 Undang-Undang No. 11 Tahun 2006

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