

The Case of Candidacy Quota of Regional Legislative Candidates and the General Election Executors in Aceh

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ABSTRACT: The aim of this community service activity is to address the synchronization issues within the regulations governing elections in Aceh, Indonesia, particularly concerning the discrepancy between local norms and national standards. The activity targets local stakeholders involved in the electoral process, including government officials, legislators, and community representatives. The method employed involves conducting comprehensive legal analysis and comparative studies between Aceh's local regulations (qanuns) and national laws pertaining to elections. Through workshops, seminars, and consultations, the community service team facilitates discussions and knowledge-sharing sessions to raise awareness about the importance of legal consistency and adherence to national standards in Aceh's electoral processes. The outcome of this community service activity is the identification of discrepancies and potential areas for amendment within Aceh's local regulations concerning elections. Additionally, stakeholders are equipped with a deeper understanding of the legal framework governing elections, contributing to improved compliance and harmonization with national standards. Recommendations resulting from this activity emphasize the necessity of aligning Aceh's qanuns with national laws to ensure legal certainty, prevent conflicts, and uphold the principles of peace that underpin Aceh's governance framework. It is recommended that future revisions of Aceh's local regulations pertaining to elections prioritize consistency with national standards, thereby fostering a more integrated and peaceful electoral environment in the region.

Keywords: *Nomination of DPRA/DPRK Member Candidates; Election and Election Organizers in Aceh; Synchronization between Qanun and UUPA.*

1. INTRODUCTION

Since the issuance of Law Number 11 of 2006 concerning Aceh Government (UUPA) on 1 August 2006, the result of peace between the government of the Republic of Indonesia and the Free Aceh Movement (GAM) on 15 August 2005. This provision gave birth to many changes in authority in the implementation of regional autonomy in Aceh, one of the changes concerns elections and voting. In relation to elections and elections, at least the UUPA regulates several things including, the formation of Local Political Parties, Requirements for Nominating Regional Heads through the Independent Route, as well as requirements for nominating members of the Regional People's Representative Council and also Election and Election Organizing Institutions, all of which are outlined in the Aceh Qanun.

Nominations for regional heads through independent channels are regulated in the provisions of Article 67 paragraph (1) letter d UUPA which states that nominations for regional heads can be

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submitted through individual channels. Then in further provisions it regulates restrictions on nominations by individuals which only apply once or Einmalig, as required in Article 256 of the UUPA. In its legal development, the Constitutional Court (MK) revoked the provisions of Article 256 UUPA, this revocation was contained in MK Decision Number 35/PUU-VIII/2010. In its decision, the Constitutional Court believes that the provisions of Article 256 of the UUPA conflict with the 1945 Constitution of the Republic of Indonesia and do not have binding legal force.

Another special arrangement is related to Local Political Parties. The UUPA opens up space for the people of Aceh to form Local Political Parties as required in Article 75 of the UUPA. Derived norms relating to local Aceh political parties are contained in Government Regulation Number 20 of 2007 concerning Local Political Parties in Aceh as well as in the provisions of Aceh Qanun Number 3 of 2008 concerning Local Political Parties for the General Election of Members of the Aceh People's Representative Council (Qanun Parlok). Since the birth of these two derivative rules. The 2009 elections were the first elections since the passing of the UUPA in Aceh. In the 2009 elections there were 6 (six) local political parties that passed registration and became election participants, namely, the Aceh Party, the Aceh Aman Sejahtera Party, the Aceh United Party, the Aceh Daulat Party, the Aceh People's Party, and the Aceh People's Independent Voice Party. Then in the 2019 General Election there were 5 (five) local political parties, namely, the Nanggroe Aceh Party, the Aceh Daulat Party, the People's Independent Voice of Aceh Party and the Aceh Party. In the 2019 Election, only the Aceh Party did not have to re-register because it had fulfilled the requirement of 5% (five percent) of seats in the Aceh People's Representative Council as regulated in the provisions of Article 90 of the UUPA. Until the 2024 General Election approaches, there will be at least 6 (six) local political parties that have passed verification at KIP Aceh, namely, the Aceh Party, the Adil Sejahtera Party, the Atjeh Beusaboh Tha'at and Taqwa Generation Party, the Darul Aceh Party, the Nanggroe Aceh Party, the Independent Solidarity of the Acehnese People.

There are many dynamics that occur in the process of implementing this authority, one of which is the difference in the number of nominations for DPRA and DPRK member candidates from local political parties and national parties, the quota for submissions for DPRA and DPRK member candidates in regional qanuns is proposed at 120% (one hundred and twenty percent) on the other hand, in the provisions of the Election Law, the quota for nominations for candidates for members of the DPRA and DPRD only contains a maximum of 100% (one hundred percent).

Then it is related to the regulations regarding Election Organizers. The Election Organizer consists of the Independent Election Commission (KIP) and the ad hoc Election Supervisory Committee (Panwaslih adhoc). The position, duties, authority and obligations of KIP are regulated in the provisions of Article 56 to Article 59 of the UUPA. Meanwhile, regarding position, Panwaslih is

regulated in the provisions of Article 60 to Article 63 of the UUPA. Derived norms regarding this matter are then regulated in the provisions of Aceh Qanun Number 6 of 2018 concerning Amendments to Aceh Qanun Number 6 of 2016 concerning the Implementation of General Elections and Elections in Aceh.

Regarding the position of KIP Aceh in organizing elections and elections in Aceh, there are no problems whatsoever in normative jurisprudence, because KIP Aceh in terms of duties, functions and authority directly follows the General Election Commission (KPU) at the central level. In contrast to the Bawaslu institution, there is dualism in the formation and implementation of duties, functions and authority for the implementation of elections and elections in Aceh.

The application of laws related to the implementation of elections and elections in Aceh often receives discussion among the public, academics, observers and also practitioners. This occurs because there is a condition of formulation that is not in sync (contradiction in terminis) between the UUPA and Qanun as a form of juridical derivation of the implementation of UUPA norms.

2. METHOD

This research uses a type of normative juridical research by examining all statutory regulations relating to the implementation of elections in general in Indonesia and specifically in Aceh Province. This approach is used to study the consistency and suitability between a statutory regulation and its derivative regulations or regulations that apply in Aceh Province as implementing special regulations, in order to resolve the problems currently being faced.

This research uses a statutory approach (statute approach) to study and analyze all statutory regulations related to the issue being studied. Includes principles, legal norms, decisions of the Constitutional Court and other documents related to legal ratios, the regulation of norms in the UUPA and its derivative regulations which are directly related to the implementation of elections in Aceh.

The data used as analytical material in this research is secondary data consisting of primary legal material, namely norms or basic rules of statutory regulations, other implementing regulations and jurisprudence. Then secondary legal materials, which will provide explanations of primary legal materials such as manuscripts resulting from the RDPU UUPA, research journals or doctrines related to research. As well as tertiary legal materials, namely materials that will provide instructions and explanations for primary legal materials and secondary legal materials, such as the Big Indonesian Dictionary, Law Dictionary and encyclopedia.

3. RESULTS AND DISCUSSION

1. Arrangement of 120% (one hundred and twenty percent) of applications for prospective DPRA/DPRK members.

The discussion regarding the submission of 120% (one hundred and twenty percent) for prospective DPRA to DPRK members in Aceh has become a separate discourse for groups, election organizers, academics, observers and researchers in Aceh. How could it not be, because the UUPA which is the basis for specialties in Aceh has never regulated this norm. Then in the formation of derivative regulations into Qanun, the 120% (one hundred and twenty percent) norm is regulated in Article 17 of Aceh Qanun Number 3 of 2018. Which states that the list of prospective candidates as intended in Article 15 contains a maximum of 120% (One Hundred and Twenty Percent) of the number of seats in each electoral district.

This norm is then considered a special norm that applies to local parties in Aceh. In the end, the majority of election participants from national parties consider this norm to be a norm that does not provide equal rights for political parties in participating in the election process in Aceh.

As the basis for implementing the 2024 election, Law number 7 of 2017 concerning General Elections (UU Election) is the reference for implementing elections in Indonesia. So, referring to the provisions of Article 244, the list of prospective candidates as intended in Article 244 contains a maximum of 100% (one hundred percent) of the number of seats in each electoral district.

Then there are differences that have left various pros and cons among the people of Aceh since the 2014 election until the 2019 election yesterday. At least the Aceh KIP through the Central KPU has issued several policies which intend to outline legal problems in the nomination of DPRA and DPRK members in Aceh, including; KPU Decree Number 324/KPU/V/2013 concerning the position of members of local Aceh political parties in the nomination of members of the DPR, DPRA and DPRK by national political parties, which in number (5) confirms that:

The number of prospective candidates that can be nominated by local Aceh political parties and national political parties in the 2014 Election nomination for each electoral district is a maximum of 100% of the seat allocation for each DPRA/DPRK Member electoral district. The 100% figure for the number of prospective candidates that can be proposed in the DPRA/DPRK Member Election is based on the provisions of Article 54 of Law Number 8 of 2012, bearing in mind the provisions in the Aceh Qanun which regulates the number of prospective candidates submitted for each electoral district as 120%, not is a special provision for Aceh Province as intended in Law Number 11 of 2006 and Government Regulation Number 20 of 2007.

This circular letter was rejected by the Aceh People's Representative Council (DPRA). In the end, after going through various debates that occurred in the process of nominating members of the DPRA and DPRK in Aceh Province, the KPU issued Decree Number: 410/KPU/VI/2013 concerning

the submission of prospective members. DPRA/ DPRK in the Aceh Province Region and followed up by KIP Aceh by issuing Decree Number 5 of 2013 concerning the submission of Candidates for DPRA, DPRK Members from Political Parties and Local Political Parties which regulates 120% candidacy in the 2014 elections in Aceh applies to political parties local and for national political parties.

The same problem also reappeared in the 2019 elections, regarding differences in candidacy treatment which again received confirmation from the Indonesian KPU through KPU Letter Number: 608/PL.01.4-SD/06/KPU/VI/2018 dated 25 June 2018 regarding Requirements for Member Candidates Aceh DPR and Regency/City DPR addressed to the Regency/City KIP chair in the Aceh region, by implementing a 100% candidacy quota, the KPU is of the opinion that there is no law-level regulation that regulates the 120% candidacy quota for legislative members in Aceh, including in Law Number 11 of 2006 concerning Aceh Government. The regulation is only at the Qanun level, namely in Article 17 of Aceh Qanun Number 3 of 2008 concerning Local Political Parties¹ and the Qanun's preamble refers to Law Number 10 of 2008 concerning the General Election of Members of the People's Representative Council, Regional Representative Council and Regional People's Representative Council, not Law Number 11 of 2006 concerning the Aceh government, and Law Number 10 of 2008 concerning General Elections of Members of the People's Representative Council, Regional Representative Council and Regional People's Representative Council is no longer in use and has been replaced by the Election Law.

However, similar to what happened in the 2014 election, the implementation of a 100% candidacy quota in Aceh was again rejected by local political parties in Aceh and the DPRA, which in essence, these parties remained adamant about re-implementing the 120% candidacy quota as regulated in the Parlok Qanun.

Regarding this policy, the DPRA again rejected it so that on the basis of this rejection the KPU again issued its Decree with Number: 674/PL.01.4-SD/06/KPU/VII/2018 regarding Explanation of the Number of Submissions from Candidates for DPRA and DPRK Members addressed to the Chairman of KIP Aceh and the Head of Regency/City KIP in Aceh, who emphasized that:

1. Based on article 80 of Law Number 11 of 2006 concerning the Aceh government and articles 15, 16 and article 17 of Qanun Aceh Number 3 of 2008 concerning Local Political Parties Participating in the General Election of the Aceh People's Representative Council and Regency/City People's Representative Council, a list of prospective candidates is regulated members of the Aceh DPR and

Regency/Municipal DPR in the Aceh Region who are drawn up and determined by the Aceh Local Political Parties Contending in the Election can contain a maximum of 120% (one hundred and twenty percent) of the number of seats in each electoral district that has been determined by the KPU.

2. For the list of prospective members of the Aceh DPR and Regency/City DPR in the Aceh region from local political parties participating in the election other than local Aceh parties, it still contains a maximum of 100% (one hundred%) of the number of seats in each electoral district in accordance with the provisions in KPU letter Number : 608/PL.01.4-SD/06/KPU/VI/ 2018 dated 25 June 2018.

With the issuance of the KPU's letter allowing the return of the 120% candidacy quota in Aceh specifically to local political parties in Aceh, while the national political parties participating in the General Election in Aceh continue to apply the 100% candidacy quota (one hundred percent) giving rise to rejection from the national political parties that are participants Elections in Aceh and they feel discriminated against by the KPU's letter.

The conflict with norms occurs in Article 17 in the provisions of Qanun Aceh Number 3 of 2008. Parlok in its provisions states that the list of prospective candidates as intended in Article 15 contains a maximum of 120% (one hundred and twenty percent) of the number of seats in each electoral district, which is not the norm. delegative and attributive norms from Law Number 11 of 2006, or in other words, these norms are not special norms as required by the UUPA. However, this norm only adopts the norms of Law Number 8 of 2010 which was a consideration of article 17 of Qanun 3 of 2008 when the qanun was issued. Apart from this meaning that this norm also does not have a binding legal basis, it is necessary to create policy enforcement which includes monitoring and evaluation processes to prevent legal violations and irregularities in elections. The KPU should have the courage to take a stand in its technical rules as delegative rules from the provisions of the Election Law itself.

2. The Problem of Dualism in Election Organizing Institutions in Aceh

The discourse regarding the dualism of election organizers in Aceh seems to have no common ground in resolving it. Indeed, the Constitutional Court (MK) has decided on 6 (six) reviews related to the Aceh Government Law with the Regional Government Law and the Election Law, in substance all of which relate to the implementation of Elections and General Elections in Aceh.

As guardian of the constitution, the Constitutional Court has translated the specificities of Aceh in the context of implementing regional autonomy in Indonesia. However, before describing the

Constitutional Court's view regarding the UUPA, it is also important to first look again at the spirit that underlies the formation of the norms of Article 60, Article 61 and Article 62 in the UUPA. If you search the manuscript of the minutes of the public hearing from the DPR-RI special committee which discussed the Aceh Government Bill, in the manuscript you can hardly find any detailed and concrete discussion of the election supervisory committee in Aceh. However, only related discussions were found regarding the institutional structure of organizers, models of authority and recruitment of organizers at the regional level and then the relationship with dispute resolution.

The spirit behind the birth of an independent election organizer in Aceh was inseparable from the distrust of the Acehnese people at that time towards the central government, resulting in public pressure to create an independent election monitoring institution in Aceh. Finally, this spirit is regulated in the provisions of Article 60 which regulates the formation of Panwaslih and the ad hoc nature of Panwaslih, which was implemented after the UUPA was promulgated with a membership composition of 5 (five) people proposed by the DPRA/DPRK, with a term of office ending in 3 (three) months after the Governor and his deputy/Regent and his deputy as well as the Mayor and his Deputy are inaugurated. Then the provisions of Article 61 and Article 62 which regulate the duties and authority of the Panwaslih, in substance there are no special duties of authority attached to the Panwaslih but in general they follow the provisions of the applicable laws and regulations. Until Article 63 places other regulations guided by statutory regulations.

The problem of institutional dualism with election supervisors emerged after the election law was passed. The Election Law seeks to integrate the Ad Hoc Panwaslih institution into a permanent institution in the Election Law, with an expansion of duties, obligations and authority, in supervising Elections and Elections in Aceh. Article 557 of the Election Law essentially wants to make Panwaslih a hierarchical unitary institution with Bawaslu and is obliged to base it on the Election Law. Then there is confirmation in Article 571 of the Election Law which revokes Article 60 paragraph (1), paragraph (2) and paragraph (4) of the UUPA.

The basis of this regulation then gave rise to lawsuits against the provisions of the Election Law, at least two requests were granted by the Constitutional Court. First, the Constitutional Court decided in decision Number 61/PUU-XV/2017 regarding the review of the Election Law on the normative treatment of Article 557 paragraph (1) letter a, letter b, and paragraph (2) of the Election Law. Second, decision number 66/PUU-XV/2017 reviews the provisions of Article 571 of the Election Law.

Before discussing these two decisions, the researcher first wants to discuss MK Decision number 5/PUU-V/2007, which in its decision places the meaning of Aceh's specificity and exceptionalism in the MK's view. Indeed, if you read the Constitutional Court's decision Number

5/PUU-V/2007 regarding Law Number 32 of 2004 concerning Regional Government, the decision of which was pronounced on Monday 23 July 2007, there is a spirit of separating the interpretation of Aceh's particularities and specialties in the MK's view which states that: With the existence of the Law The Aceh Government Law Number 18 of 2001 concerning Special Autonomy for the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam is revoked and declared invalid based on Article 272 of the Aceh Government Law. Meanwhile, the existence of Law Number 44 of 1999 concerning the Implementation of the Specialties of the Special Blood Province of Aceh (LNRI of 1999 Number 172, TLNRI Number 3893) is still maintained by the Aceh Government Law. Therefore, the Supreme Court is of the opinion that the special nature of the Aceh Government remains based on Law Number 44 of 1999 which in Article 3 states that:

1. Privilege is a recognition from the Indonesian nation that is given to a region because of the struggle and intrinsic values of society which have been maintained from generation to generation as a basis for spirituality, morals and humanity.
2. The provision of privileges includes:
 - a. Implementation of religious life
 - b. Implementation of traditional life;
 - c. Implementation of Education; And
 - d. The role of ulama in determining regional policy.

Thus, the Court is of the opinion that the implementation of special autonomy for Aceh is only based on the provisions of Law Number 44 of 1999 concerning the Implementation of Special Provincial Special Regions of Aceh. However, in other decisions the Constitutional Court also interpreted other conditions regarding the implementation of regional autonomy in Aceh. The other situation referred to is contained in the Constitutional Court's decision Number 61/PUU-XV/2017 regarding the review of the Election Law on the treatment of norms in Article 557 paragraph (1) letter a, letter b, and paragraph (2) of the Election Law.

The MK is of the view that the presence of the UUPA cannot be separated from the response to the unrest that occurred in Aceh. Apart from that, the Constitutional Court also provides a clear separation regarding the UUPA regarding the implementation of Aceh's specialties or privileges as regulated in the Aceh Specialties Law. By concluding that not all things regulated in the UUPA are specific to Aceh, but the UUPA itself is a special law. According to the Constitutional Court, specifically here it is not in the sense that the UUPA is more specific than other laws which regulate material content that overlaps with the material content regulated in the UUPA. But specifically in the sense that the UUPA only applies specifically to the Aceh region.

The Constitutional Court's other argument is that Panwaslih as regulated in the UUPA is not a special or special institution for Aceh, its existence is not part of the institution that carries out Aceh's privileges as regulated in the Aceh Special Law. Panwaslih is only distinguished in the context of its name, and its membership composition is different from other Provincial and Regency/City Bawaslu in Indonesia. So in this decision the Constitutional Court took into account the historical aspect which emphasized the desire to establish this institution to carry out the mandate of the UUPA which is a derivative of the Helsinki MoU. So the UUPA cannot necessarily be changed without referring to the UUPA itself. In the aspect of establishing a law relating to the Aceh Government or changes to the content of the UUPA, it is carried out by first consulting and obtaining consideration from the DPRA.

Besides that, apart from decision Number 61/PUU-XV/2017, at the same time the Constitutional Court also issued decision Number 66/PUU-XV/2017 reviewing the Election Law which strengthened the position of the Ad Hoc Panwaslih in Aceh. This means that the desire to integrate the Aceh Panwaslih into the Election Law as desired in Article 571 of the Election Law by revoking Article 57 and Article 60 paragraph (1), paragraph (2) and paragraph (4) of the UUPA was canceled by the Constitutional Court, so that the formation of an ad hoc Panwaslih as desired by the UUPA is still still applies.

Legal problems do not occur at the statutory level when referring to the two Constitutional Court decisions above, but arise at the qanun level. Aceh Qanun Number 6 of 2018 concerning Amendments to Aceh Qanun Number 6 of 2016 concerning Organizing General Elections and Elections in Aceh (Qanun for the Implementation of Aceh Elections and Elections). This Qanun creates legal uncertainty regarding election management institutions in Aceh. This happens because there are norms that are neither delegative norms nor attributive norms from the UUPA. If we refer to the provisions of Article 36 paragraph (1) and paragraph (2), which essentially states. Supervision of Elections and Elections is carried out by the Aceh Panwaslih and the Polling Place Supervisor. With a term of office of 5 (five) years from the pronouncement of the final promise of office.

The norms of Article 36 of the Aceh Election and Election Organizer Qanun have reduced the spirit of Article 60 of the UUPA. The UUPA emphasizes that the Aceh Panwaslih has an ad hoc nature, but this qanun changes the adhoc nature to permanent for 5 (five) years. Of course, this results in conflicting norms as desired by the UUPA itself. More directly, this norm is a norm that does not have binding legal force because of the contradiction in terminis that occurs in its regulation. Apart from being related to widening authority in supervision, originally in the UUPA Panwaslih Aceh supervised the implementation of elections in Aceh. However, the provisions of the qanun also supervise the implementation of elections in Aceh, so this condition also results in legal uncertainty

regarding the norms of the qanun itself because it is in conflict with higher regulations above it, namely in conflict with the Election Law itself.

4. CONCLUSION

Throughout the implementation of Aceh's specificities and privileges, the issue of adding and/or widening authority is often found in derivative regulations in the form of qanuns in Aceh. Qanun should only be derivative regulations that do not contain new norms that tend to widen and expand the meaning of what is intended by the UUPA itself. And it's no wonder that sometimes the content of Qanun norms also violates the UUPA itself. The institutional arrangements for election organizers that expand their authority are evidence of irregularities in the Aceh executive and legislature in issuing qanuns.

There needs to be changes to harmonize several qanuns, especially qanuns related to local Aceh political parties in order to follow developments in applicable law. So the qanun does not normatively reduce equal rights for national political parties in participating in elections in Aceh. Apart from that, there also needs to be confirmation from the election organizers in providing equal rights between local and national political parties in Aceh in participating in the elections. It is hoped that efforts to reform the qanun of local political parties and election organizers are solely to create order and legal certainty for the people of Aceh who are the subject of a rule in the form of a qanun.

The sustainability of peace should not only be narrowed in meaning but in a broader context, peace in socio-political aspects will also be a consideration in maintaining true peace. The spirit of peace does not stop with the achievement of peace between GAM and the Central Government, more than that peace must be embedded in all aspects of community life in Aceh.

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