

## **Actualizing The Functions of Wali Nanggroe Institution In The Implementation of Special Autonomy**

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**Abstract:** Aceh as a special region in the Unitary State of the Republic of Indonesia. Article 18B is a form of state recognition of regions that have specificities. The long journey of political and violent conflict upheaval in Aceh due to distrust and failure of imagination in the process of statebuilding between the Central Government and Aceh since Indonesian independence ended at the negotiating table between the Free Aceh Movement (GAM) and the Republic of Indonesia (RI) in the form of a Memorandum of Understanding. The existence of the Wali Nanggroe Institution (WNI) in the agreement was then elaborated into Article 96 and 97 of Constitution Number 11 of 2006 concerning Aceh Government, Aceh Qanun (Constitution) Number 8 of 2012 concerning Wali Nanggroe Institution and Aceh Qanun Number 9 of 2013 concerning Amendments to Aceh Qanun Number 8 of 2013 concerning Wali Nanggroe Institution as the legal basis for itself. Wali Nanggroe Institution is a custom/traditional leadership as a unifying community under the leadership of Wali Nanggroe who is independent, authoritative, and has the authority to foster and oversee the implementation of the life of the indigenous people of Aceh. The main problems in this research are whether the existence of Wali Nanggroe Institution is in accordance with the concept of Aceh's special autonomy and how is the position of the Wali Nanggroe Institution expected to be in the future implementation of Aceh's special autonomy.

This study aims to find out and analyze the existence of the Wali Nanggroe Institution that should be based on the implementation of special autonomy and the effectiveness of its position so far, to what extent is the WNI participation in the administration of Aceh so far and what is ideal concept of the WNI position will be in the future.

This research is a normative juridical research, carried out with the intention of obtaining secondary data. The specification of this research is analytical prescriptive. This research was also conducted with an empirical juridical approach. Data collection techniques were employed through a review of data that can be obtained in legislation, textbooks, journals, research results, etc related to this research. Then conducted direct research in the field through direct interviews with respondents and informants to strengthen this research.

The results showed the position of the Wali Nanggroe Institution does not reflect the principle of effectiveness since it has been formed until now. The institutional structure is too large and not comparable with its tasks and functions, so that it only consumes a large budget. Wali Nanggroe's partiality in the politics towards certain groups has caused Wali Nanggroe loses the trust of the Acehnese people in this particular institution as a unifier of the indigenous people of Aceh. The WNI has not been able to influence the implementation of the Government in Aceh, the series of upheaval between the Government of Aceh and the Aceh House of Representatives (DPRA) and others, Wali Nanggroe was unable to take on the role of neutrality as a unifier of life in Aceh. The disharmony relationship between WNI and Katibul Wali has made WNI unable to realize its duties and functions.

The Aceh House of Representatives (DPRA) should have immediately made changes to the WNI Constitution, especially related to the organ substances of its institution. Organ streamlining and strengthening the position of Wali Nanggroe as an independent person, so that Wali Nanggroe relies more on charisma and character as "Ureung Tuha" that must be portrayed, compared to the wide and numerous structures in the WNI. The relationship position of Katibul Wali and the WNI must be affirmed in one legal forum, so that there is alignment in realizing the WNI programs.

**Keywords:** Function, Independence, Wali Nanggroe Institution

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## I. INTRODUCTION

Juridically, Aceh has legitimacy for special autonomy and apart from the juridical side, Aceh has the right to special autonomy because it has a long background, both socially and politically. Aceh experienced a long period of conflict, starting from the colonial period, DI-TII until the Free Aceh Movement (GAM). With a variety of problems that occurred, and to resolve the issue, was formed Law Number 44 of 1999 concerning the Implementation of the Privileges of the Special Province of Aceh, then Law Number 18 of 2001 concerning Special Autonomy for the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam. However the special autonomy law has not favored Aceh specifically, so it was replaced with Law Number 11 of 2006 concerning the Government of Aceh to fulfill a joint agreement between Aceh and the Central Government in reducing the conflict.

In the provision of Aceh special autonomy there is one special institution. The institution has special powers in the fields of socio-culture and customs. This special institution with its authority characterizes Acehese regional identity that is not shared by other regions in Indonesia. The institution referred to above is the Nanggroe Institution (WNI).

Since the past few centuries, the customary culture has been able to establish its identity as a national legal community in the national status of Aceh among dozens of other nations in the world. The integrity of Aceh's cultural community is very strong, thick, harmonious and in line with the ideals of building prosperity based on religious, communal, concrete and visual aspects as a characteristic of a culturally-based society.<sup>4</sup> Therefore, the existence of the WNI is needed to maintain the customary order of Aceh, because the custom is the identity of the Acehese people.

Regarding the WNI was first raised in the Helsinki MoU, "The Wali Nanggroe Institution will be formed with all its ceremonial instruments and titles".<sup>5</sup> Then it is spelled out in Article 96 of Law Number 11 Year 2006 concerning the Government of Aceh, "The Wali Nanggroe Institution is a custom/traditional leadership as a unifying community that is independent, authoritative, and has the authority to foster and oversee the administration of the life of traditional institutions, customs, and awarding titles/degrees and other traditional ceremonies ". To follow up the juridical foundation regarding to WNI, it was further emphasized by Aceh Qanun Number 8 of 2012 concerning the Wali Nanggroe Institution then amended by Aceh Qanun Number 9 of 2013 concerning Amendments to Aceh Qanun Number 8 of 2012 concerning the Wali Nanggroe Institution after there was a revision from the Ministry of Home Affairs. Article 31 Aceh Qanun Number 8 of 2012 concerning the Wali Nanggroe Institution states that, to carry out the functions referred to Article 30, the Wali Nanggroe Institution has the authority:

- a. Granting or revoking honorary titles to individuals or entities with title names based on historical traditions, language and customs of the people of Aceh;
- b. Carrying out the authority of customary leadership which is dignified in the structure of community life for settlement in special affairs based on customary values and local wisdom in favor of the Aceh people;
- c. Determining holidays followed by traditional ceremonies based on historical traditions and customs of the Aceh people;
- d. Authority as referred to letter c except for certain agencies in public services in accordance with the specificity of the Laws and Regulations;
- e. Conveying opinions, directions and advice to the Government of Aceh and the Aceh House of Representatives and other Institutions;
- f. Providing proposals, suggestions and considerations to the Government; and collaborating with foreign institutions.

The WNI function is regulated in Article 29 Qanun Number 8 of 2012 concerning the Wali Nanggroe Institution, stated:

- a. Formulation and stipulation of policies on the administration of the life of traditional institutions, customs, and granting title/degrees and other traditional ceremonies;
- b. Preparation of the Acehese people in the implementation of specificities and privileges as specified in this Qanun;
- c. Protection by custom to all Acehese both inside and outside Aceh;
- d. Delivering opinions, directions and advice to the Government of Aceh and the Aceh House of Representatives and other Institutions;
- e. Delivering proposals, suggestions and considerations to the Government;

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<sup>4</sup> Taqwaddin Husin, *Kapita Selektta Hukum Adat Aceh dan Qanun Wali Nanggroe*, Bandar Publishing, 2013, hlm. 27.

<sup>5</sup> Butir MoU Helsinki antara Gerakan Aceh Merdeka dan Republik Indonesia tahun 2005, point 1.1.7.

- f. Carrying out the formation of the Wali Nanggroe Institution with all its traditional ceremonies and titles;
- g. Carrying appointment, inauguration and dismissal of the staves of the Wali Nanggroe Institution;
- h. The inauguration of the DPRA and the Head of the Aceh Government in a customary manner;
- i. Carrying out the awarding and revocation of an honorary degree to a person or institution;
- j. Organizing the administration and protection of Aceh's treasures inside and outside Aceh;
- k. Implementation of cooperation with various parties both in country and abroad for the advancement of Aceh's civilization;
- l. Giving directions and guidance in developing Aceh's quality human resources while preserving and developing Aceh's culture and customs; and
- m. Organizing Aceh peace and participating in the process of resolving world peace.

In the provisions of the WNI Constitution (Qanun), the institutional structure contained in the WNI is too large but the authority is small over the Aceh Government, the WNI is limited to providing advice and consideration, the legal provisions for the Wali Nanggroe's educational requirements are also not mentioned in the Qanun. Wali Nanggroe is as personal and independent in leading the WNI, but in fact, Wali Nanggroe's involvement in Aceh local political parties violated Article 96 of Law No. 11 of 2006 concerning Aceh Government. The existence of the two Qanuns governing WNI is still far from the expectation contained in Article 20 of Law Number 11 Year 2006 concerning the Government of Aceh.

Through the functions and authority possessed by the WNI and regulated in the Qanun it will certainly have implications for Aceh, on the one hand this is a form of recognition and strengthening of Aceh's autonomy as mandated in the Constitution, but on the other hand there are still weaknesses in the WNI especially the actions of Wali Nanggroe on the current condition of Aceh in the capacity of its authority, so it is necessary to strengthen the capacity that must be owned by the WNI, because WNI as a special and special institution is owned by Aceh, as implementing Aceh privileges after the conflict in the areas of custom, social, culture and politics in Aceh have an obligation to maintain Aceh peace and foster the order of the people of Aceh in particular. The WNI must be able to become a credible and independent institution in providing suggestions and consideration to policies that will be issued by the Aceh House of Representatives and the Government of Aceh.

Weaknesses of capacity or ability possessed in the WNI in carrying out its functions and authorities are not able to provide a significant influence on the turmoil that has occurred so far in Aceh, therefore it is deemed necessary to be investigated first, which is the object of this research study namely whether in terms of normative aspects of legislation that do not support yet the implementation of the WNI or from the empirical aspect in this case there is still an attitude of distrust from the people of Aceh regarding the existence of WNI so far, because some Acehnese people consider that the WNI has burdened the Aceh Revenue and Expenditure Budget (APBA) without satisfying results for the people of Aceh so far.

Based on the background description above, then some interesting issues can be formulated for further investigation, namely: whether the existence of WNI is in accordance with the concept of special autonomy in Aceh, and how is the WNI's involvement in the administration of Aceh so far and how is the position of the Wali Nanggroe Institution expected in the implementation of Aceh's special autonomy going forward?

This research is a normative juridical research. Normative juridical research is a legal research method carried out by examining mere literature or secondary data.<sup>6</sup> These secondary data is obtained from textbooks, laws and regulations, and also journals that are related or relevant to the problem to be discussed. This research was also conducted with an empirical juridical approach, it means primary legal materials were collected from interviewees through interviews as supporters of secondary legal materials. The specification of this research is analytical prescriptive. Prescriptive in the sense that this study aims to examine or study more closely related to a legal problem, Empirical juridical research is legal research concerning the enforcement or implementation of normative legal provisions in action on every legal event.<sup>7</sup> The specification of this writing is prescriptive analytical law, as well as observing and reviewing the effectiveness of the implementation of legal norms in order to find answers about what and how should each problem arise and analyze it with legal objectives, the values of justice, the validity of the rule of law, legal concepts and norms law, in this case related to the juridical aspects in realizing the functions of the existence of the WNI in the implementation of Aceh's special autonomy,

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<sup>6</sup> Soerjono Soekanto, Sri Mamudji, *Penelitian Hukum Normatif*, Raja Grafindo, Jakarta, 1994, hlm. 13-14.

<sup>7</sup> M.A. Loth, *Bahasa dan Hukum: Sebuah Metodologi Kecil*, terj. Linus Doludjawa, Direktorat Jenderal Departemen Hukum dan Hak Asasi Manusia, Jakarta, 2007, hlm. 81.

especially on the substantiality of the WNIQanun after the change, but is still ineffective or not in line with the law expectations.

## II. DISCUSSION

### A. The Existence of The Wali Nanggroe Institution in The Implementation of Special Autonomy in Aceh

In the Big Indonesian Dictionary the *Wali* has the obligation to take care of orphans, the person who becomes the guarantor and guardian of the child, the caretaker of the bride at the time of marriage, the pious religious propagator, and the head of government. According to the language of *Wali* means love, close friend, helper, maid, guardian, protector, caretaker, also means close family, the form of plural from *wali* is *aulia* which means lover of God. The scholars also have different opinions about the meaning of the word guardian. According to Ibn Arbawai the *aulia* comes from the word *waw, lam, ya*, which has the meaning of closeness, that is, a friend, and the second means to direct, arrange, represent. In the Sufi world the term *Wali* refers to two meanings, first the person whose words to Allah take place continuously, secondly someone who is cared for and guarded by Allah continually takes care of various immoral acts and gets guidance to remain in obedience.

Etymologically, the word "*wali*" is an Arabic language that has been popular with Indonesian people. AW Munawwir interprets the word *wali* (plural: *awliya'*) with several meanings, including those who love, friends, followers, crown prince, and rulers. While by Atbaik Ali and Zuhdi Muhdlor, the word *wali* is interpreted by representatives, executive officers, caretakers, helpers. This word can also be interpreted as the owner, follower, responsibility (if related to one affair), the crown prince (if related to the structure of the kingdom), and inheritance guardian (if associated with someone who is given a will).

Carrying the opinion of Syafiq al Mughni, Yusra Habib Abdul Ghani stated that *wali* means: guardian, protector, contributor, friend, administrator and also used with the meaning of close family. The plural form of the word *wali* is *auliya*, which means lover of God. Allah says: "Know, indeed, the guardians (Wali) of Allah never feel afraid (worry) and will never be sad." (Surah Yunus: 62). In the capacity as guardian, must behave well. "Verily Allah commands a just and good attitude." (Surah An Nahl: 90) Thus, people who hold the title of Guardian get an important position in the Islamic social system, both because of their spiritual qualities and the social role.

In further developments, words emerged: *Wali Hakim, Wali Nikah, Wali Anak Yatim, Wali* in *Qisyasy, Wali Songo* (nine Wali, known in Javanese society), *Wali* in the Sufi world, *Wali Nanggroe* (State) and Mayor. All of this points to the understanding that, guardians have the privilege and full power of which the decisions are binding. In other words, *wali* at the same time has moral characteristics that are brave, agile wise, fair, honest, trustworthy, obedient and praiseworthy in carrying out the task.

The meanings as expressed above, of course, cannot be released with the emergence of the term '*Wali Nanggroe*' in Aceh. However, since it has become a term in society and even included in the context of government (politics), then the term is not enough just viewed by the language course. *Wali Nanggroe* in the context of Aceh, according to Yusra, must be traced in the context of leadership, social-political life, law and morals. In another article, Yusra Habib gave the impression that leadership is a major milestone in providing welfare for the people of Aceh which practically, definitively, included the three reviews he puts forward about *Wali Nanggroe*. Yusra argued that leadership is a basic principle for the Acehnese people. Because the leader is responsible for all matters, starting from: prosperity, empowering human resources (intellectual) and nature, protecting the people, preserving culture, maintaining the sovereignty of the country from all forms of external and internal attacks and interference as well, so that a nation can be dignified.

History is the highest tool because it can contribute material, namely data and facts from the past, for further processing. Knowing history will help determine projections for the future. History is also meant to within certain limits that be able to compile a pattern of development for the future and give an idea of how a certain situation is expected to develop in certain circumstances. For this reason, studying history is a must. History is studied to draw lessons, so that in arranging the future does not collide with the same mistakes. Because history is pieces of the era that tend to be similar and duplicated. Aceh is a large nation that has its own historical journey.

The Constitution of Aceh Government (UU PA) was promulgated on August 1, 2006 and took effect from that date. The enactment of the Law on the Government of Aceh grants broadest possible autonomy to the Province of Aceh. Although previously there have been other laws that give privileges in the fields of religion, education, customs and the role of scholars in policy makers. In addition, there is also Law No.18 of 2001 concerning special autonomy for the Special Province of Aceh as the Province of Nanggroe Aceh Darussalam. One of the mandates of Law No. 18/2001 is the establishment of a Syar'iyah Court which although still within the national justice system, has broader authority when compared to religious courts in other provinces in Indonesia, because besides being able to hear civil cases (marriage, divorce, reconciliation) conventionally but also being able to hear Islamic criminal cases (jinayah).

In the Law of the Kingdom of Aceh (Qanun Meukuta 'Alam Al-Asyi) the power of the Sultan is equal to that of Malikul Adil and Chairman of Reusam. The highest power is in the Parliamentary Assembly. This assembly gives rights and obligations and has full authority over custom and the law. Therefore, on January 25, 1874, Sultan Mahmud Syah died, the remaining members were Malikul Adil Teungku Imum Lueng Bata and the Head of Custom Teungku Tjihik Di Tiro Muhammad Saman.

At that time the war was raging in Banda Aceh, then all members of parliament, head of custom, the temporary Sultan (because at that time Sultan Muhammad Daud Syah was only 11 years old), Malikul Adil moved to Pidie, as part of the war strategy. After three days of journey, on January 28, 1874, arrived at Keumala, Pidie and parliament immediately withdrew all authority custom, the law before parliament. Members of parliament at that time were Tuanku Raja Keumala, Tuanku Banta Hasyem, and Teuku Panglima Polem, and Teungku Tjihik Di Tanoh Abee Syeh Abdul Wahab. At that time Tuanku Raja Keumala told the Assembly to give the authority of the Aceh kingdom to Teungku Chik Di Tiro on January 28, 1874.

Since then, legitimately, Teungku Chik Di Tiro Muhammad Saman was as the person in charge and in full power in the state of Aceh as *Mudabbirul Muluk* or the first Wali Nanggroe in Aceh. Teungku Chik Di Tiro Muhammad Saman led the Aceh state for 17 years and he died on January 21, 1891. After that, the power and struggle of the Aceh state was continued by his older son, Teungku Muhammad Amin Bin Muhammad Saman who was martyred in 1896, followed by Teungku Abdussalam Bin Muhammad Saman (martyr 1898), Teungku Sulaiman Bin Muhammad Saman (martyr 1902), Teungku Ubaidillah Bin Muhammad Saman (martyr 1905), Teungku Mahyiddin Bin Muhammad Saman (martyr 1910), and Teungku Mu'az Bin Muhammad Amin (martyr December 3, 1911).

The history of Aceh royal power, once led by a Queen, during the same time the polemic continued in the community, especially in the circles of religious leaders and political elites. Together with this debate the term 'guardianship of power' in Aceh began to be known. According to Teuku Kembal Pasha, the guardianship of power had taken place since the beginning of the Aceh kingdom under the leadership of the Queen, Taj'alam Syafiyat al Din. At that time, "the real king" at the beginning of his reign was Panglima Polem Batee Itam, which according to the Aceh historian, M.Adli Abdullah, was pronounced as T. Panglima Polim I (First). Nurdin Ar Raniry became one of the religious leaders who was very thick showing his rejection of women's leadership. According to him, women have no basis to be the leader of '*am* (leader of the state) in the text. This opinion only began to be balanced after the return of Sheikh Abdurrauf Assinggili or known as Teungku Syiah Kuala (1661-1693) returned from the Middle East in 1661, the situation began to differ, the situation began to change. He composed the phenomenal book, *Mir-atu Thulab* (Mirror of Science Seekers), which contained the principles of trade and politics. One of them is about the ability of women to become politician. He considered that "men are leaders for women" is the domestic (household) context, whereas in public government it is not guilty.

The Acehnese struggle continued until the Dutch were driven out of the land of Aceh without conquering it. According to Teungku Hasan Tiro after 65 years (counting from the martyrdom of Teungku Mu'az December 3, 1911) the struggle experienced a vacuum, then on December 4, 1976, Teungku Hasan Tiro announced again the independence of Aceh as a continuation of the Aceh kingdom first. From this historical fact, that Wali Nanggroe began with the appointment of Teungku Chik Di Tiro Muhammad Saman as the person in charge and in full power in Aceh as *Mudabbirul Muluk* or the legal Mayor of Aceh on January 28, 1874.

When Teungku Chik was named Wali Nanggroe, the last Aceh Sultan, Sultan Muhammad Daud Syah was 11 years old, which after he was martyred, continued by his children and grandchildren for generations, in the Wali Nanggroe sequence as follows: Teungku Chik Ditiro (WN I), Teungku Muhammad Amin (WN II), Teungku Abdussalam (WN III), Teungku Sulaiman (WN IV), Teungku Ubaidillah (WN V), Teungku Mahyiddin (WN VI) and Teungku Mu'az (WN VII), and Teungku Hasan Tiro grandson of Teungku Chik as a person who continued the struggle of the Tiro family was named as WN VIII.

The process of establishing the WNI in the Qanun plan of WNI 2010 is mentioned in Article 14 paragraph (1) the eighth Wali Nanggroe is the declaration of Aceh Freedom, His Excellency Al-Mudabbir Tengku Tjihik Di Tiro Dr. Hasan Muhammad, Paragraph (2) If the Wali Nanggroe as referred to in paragraph (1) has passed away, then based on the results of the meeting "*Sigom Donja*" in Stavanger, Norway, on July 2, 2001, inaugurated Malik Mahmud as Peurdana Meuntroe (Prime Minister), and Zaini Abdullah as Meuntroe Luwa (Minister of Foreign Affairs), then directly Tengku Malik Mahmud became Waliul'ahdi (Mayor of Guardian). While Teungku Malik Mahmud as WN IX was crowned by the Aceh House of Representatives(DPRA), almost directly proportional to the history of the appointment of Teungku Chik Di Tiro Muhammad Saman as WN I.

Since the Constitution of Aceh Government was enacted, seven years later the WNI was successfully realized after passing various considerations by the Aceh House of Representatives. The Wali Nanggroe Qanun was only launched in 2012 and the change was revised in 2013 by the Aceh House of Representatives. The ratification of Qanun Wali Nanggroe is also strengthened by universally accepted legal principles, namely: (1)

The principle of *lex specialis derogate legi generale principle* (special legal provisions take precedence over general legal provisions); (2) the principle of *pacta sunt servanda* (the principle that the judge or third party must respect the substance of the contract/agreement made by the parties in good faith).<sup>8</sup> The existence of the WNI is as one of the important substances of the Constitution of Aceh Government, besides the Local Political Parties, the Aceh Flag and Symbol, and the Islamic Sharia. The WNI is as a representative institution of the future Aceh civilization. An independent institution, not a particular group institution but belongs to all the people of Aceh. The WNI is led by a personal and independent leader as mentioned in the Qanun. The leader of the institution is known as Wali Nanggroe with *laqab* or the title of *Al Mukarram Maulana Al Mudabbir Al Malik*.

Wali Nanggroe in his capacity as the leader of the WNI cannot carry out his authority without any other party participating in carrying out the authority given by the Qanun to realize the WNI functions. Keurukon Katibul Wali is the main party who has an important role to assist Wali Nanggroe in implementing WNI authority, Keurukon Katibul Wali is carries out general administration, finance, law and trial, planning and cooperation, data collection and information systems, the provision and coordination of experts required by the WNI in accordance with statutory regulations to empower the WNI.<sup>9</sup>

Keurukon Katibul Wali is assisted by several sections, a general section, a legal and trial section, and a section on cooperation and public relations. The relationship between Katibul Wali and the WNI is only a matter of administrative and financial order of the WNI. Technically, the operational of Keurukon Katibul Wali is responsible to Wali Nanggroe while administratively responsible to the Governor through the Regional Secretary, because the authority in the Keurukon Katibul Wali environment is appointed and dismissed by the Governor. The relationship between WNI and Keurukon Katibul has so far been more of an administrative order, but for other issues it did not run well, for example the granting of legal advice in certain fields by Keurukon Katibul Wali in the implementation of WNI's authority so that it is in accordance with the rule of law is often ignored by the WNI directly. The WNI is a new institution in Aceh and even Indonesia, it is one of the factors that makes the concept of LWI and relations with other government institutions that are not in accordance with expectations and even violates the law. However, on the other hand the WNI feels the most disadvantaged so far, because what is understood by the people of Aceh so far is only the WNI and the point is only on Wali Nanggroe, even though there is a Keurukon Katibul Wali institution responsible for the functioning of the WNI. Moreover, financial problems, is not only used by the WNI.

The Wali Nanggroe Institution has 14 organs with 153 people assisting the duties of Wali Nanggroe, but the implementation is only the Tuha Peut Council, the Tuha Lapan Council and the Fatwa Council. The remainder of the institution has not been formed as mandated in the Qanun. Provisions regarding the institutional organs contained in the WNI, it does not reflect efficiency and professionalism as the main principle in the Constitution of Aceh Government. One of the Wali Nanggroe staff, Abu Razak said, "Aceh's civilization which originated from customs and culture has so far tended to experience a shift in function. Therefore, customary institutions under the coordination of Wali Nanggroe add insight and find solutions to strengthen Aceh's customs and culture".

Article 4 letter a Qanun Number 8 of 2012 concerning Wali Nanggroe Institution is declared Wali Nanggroe as a unifying entity that is independent and authoritative and dignified. The article emphasizes the neutral position of Wali Nanggroe, not in favor of any group and anyone, it means that the position of Wali Nanggroe belongs to all Acehnese people not to certain circles. Wali Nanggroe or Malik Mahmud Al Haythar in politics, held the position of Chairperson of the Aceh Party Tuha Peut Assembly and at the GAM Milad event, Wali Nanggroe said, "My message to KPA, especially the Aceh Party, should be able to increase votes/seats in all districts/cities, and at the level of the Aceh Government for legislative. Only the victory of the Aceh Party can determine the direction of economic development and the future infrastructure of Aceh, in accordance with the ideals that we stand for, ". Statement of political attitudes from Wali Nanggroe almost every Election and Local Election. This political attitude violates the provisions of the Constitution of Aceh Government and Article 2 letter a Qanun Wali Nanggroe as an independent and unifying leadership of the people of Aceh. Regardless of the course of his personal political history, the wisdom of a Wali Nanggroe who is leading a special institution must break away from the political symbols of any group.

One of Acehnese figure and also a influential person in GAM, Zakaria Saman or Apa Karya said that just before the 2017 elections "Wali Nanggroe belongs to the people of Aceh, not to one of the groups, moreover belongs to the party. He hopes that Wali Nanggroe will be neutral, because the one who will advance

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<sup>8</sup>Serambi Indonesia, <http://aceh.tribunnews.com/2016/03/16/qanun-wn-adalah-turunan-uupa-dan-mou-helsinki>. diakses pada Hari Jumat tanggal 02 Agustus 2019.

<sup>9</sup>Pasal 5 Peraturan Gubernur Aceh Nomor 130 Tahun 2016 tentang Kedudukan, Susunan Organisasi, Tugas, Fungsi, dan Tata Kerja Keurukon Katibul Wali/Sekretariat Lembaga Wali Nanggroe Aceh.

in the upcoming local election is not only from one side. if Wali Nanggroe takes sides, it will be dangerous. Because if the supported candidate loses, the position of Wali Nanggroe will be threatened.

Malik Mahmud Al Haythar's current position occupying Wali Nanggroe IX and now X is a influential person of GAM (Free Aceh Movement) during the conflict, his position was as Prime Minister or Waliyul Ahdi from Hasan Tiro's position as Wali Nanggroe in the structural GAM government at that time. The position of Wali Nanggroe at that time was certainly very difficult to escape from the symbol of the group, especially now that the position of Wali Nanggroe has been recognized as a special institution in Aceh, it means that belongs to the people of Aceh, does not belong to a particular group. In essence, being neutral is a very difficult and even impossible thing, where when we are faced with two choices, namely between right and wrong, between the interests of many people or business interests, between government policies/regulations or company policies, between company interests or parties outside the company interests, and others. Then partisanship is something that cannot be avoided, in the sense of whether or not partisanship must occur.

The existence of WNI is very much tied to the authority possessed by the Governor as the head of the Aceh Government. There are several provisions in the WNI Qanun that require it to be regulated in the Aceh Governor's regulation, such as the issue of financial management. This proves the position of the WNI is still under the Governor of Aceh, because the Governor is the chairperson of the government and at the same time the person in charge of managing the government in Aceh. In the WNI there are special institutions that help run the institution. The institutional arrangement is for the purpose of carrying out the duties, functions and authority of Wali Nanggroe. Institutions in WNI are small organizations with their respective expertise and in accordance with the authority given by Qanun. In the provision of Article 4 paragraph (1) of the 2012 Aceh Qanun concerning the Wali Nanggroe Institution, the institutional structure of the Wali Nanggroe consists of Wali Nanggroe, Waliyul'ahdi, High Council, Functional Assembly and Structural Assembly/Institution.

The WNI as a special institution that has the duties and functions as a provider of opinions, directions and advice to the Government of Aceh and the DPRA and other institutions, nowadays the WNI has not been able to maximize its authority. The existence of the WNI until 2018 has not been able to carry out its duties and functions as an institution that provides opinions, directions, advice to the Government of Aceh, DPRA, and other institutions in the formulation of strategic policies and resolution of important problems, as well as submitting suggestions, and considerations to Central government. Evidently, some commotion occurred between government institutions, starting from the DPRA with the Government of Aceh and other institutions, Wali Nanggroe was unable to be present to mediate and not solve the problems that occurred at the time, even though Wali Nanggroe has the authority as a unifying institution of Aceh.

The series of upheaval in Aceh, especially the issue of dispute between state institutions, such as the Government of Aceh and the DPRA. In 2016, there was a commotion between the DPRA and the Government of Aceh related to the discussion process of the Draft Qanun on the Aceh Revenue and Expenditure Budget (APBA). The uproar was not resolved by Wali Nanggroe, or the minimal role of Wali Nanggroe's efforts to resolve conflicts between Ad interim the Governor of Aceh (Soedarmo) and the DPRA Chairperson, so that the APBA ratification was delayed until April 2017. The same conflict recurred in the discussion process of the 2018 RAPBA, again Wali Nanggroe did not play an optimal role in resolving the conflict. In the aftermath of this upheaval, finally, the Governor of Aceh (Irwandi Yusuf) approved the 2018 APBA by issuing a Governor Regulation, not through the Aceh Qanun.

Another case occurred in 2019, namely the occurred misperception by the Ad interim Governor of Aceh against the Aceh Traditional Council (MAA). In this case, Wali Nanggroe also did not resolve the problem that occurred between the MAA and the Government of Aceh, so that the MAA reported the problem of not being inaugurated the elected chairman in the MAA Great Conference to the Indonesian Ombudsman of Aceh. Actually this problem could be solved by Wali Nanggroe as a symbol of unifying and "Acehnese parents". However, as a result of the new research, the Study Team found a news link containing Wali Nanggroe's statements and comments related to the chaotic issues between the MAA Chairman of the Great Conference results and the Ad interim Governor of Aceh. However, Wali Nanggroe only made a statement, did not invite and sit together, between the the MAA Chairman of Great Conference results and Ad interim Governor of Aceh to provide advice and directions to resolve disputes related to the position of the MAA Chairman of Great Conference results who did not be inaugurated.

The Wali Nanggroe Institution is an institution of custom leadership as a unifying community that is independent, authoritative, and has the authority to foster and oversee the implementation of the life of traditional institutions, customs, language and granting title/degree and other traditional ceremonies. Community expectations of the existence of WNI, as expressed by one Acehnese figure, "We do not want to talk about the figure of the leader of the institution of Wali Nanggroe, what we want is that the institution runs according to expectations when the institution was established. Namely, among other things the Wali Nanggroe institution must be able to regulate custom leadership in Aceh and become a unifying institution for the people of Aceh. The Wali Nanggroe Institution also has the authority to foster and oversee the life of

traditional institutions, traditional ceremonies, and carries out the awarding of honorary degrees. So, the duties of the Wali Nanggroe institution must be clear to the people of Aceh and to parties outside Aceh, including abroad. Remember, this Wali Nanggroe institution is a respected and large institution so that APBA provides a lot of budget for this institution every year. "There are a number of signs why the WNI must be maintained. First, the existence of an institution such as the Wali Nanggroe Institution is needed by Aceh today. Second, the need for this institution aims to bind the people of Aceh in a sense of togetherness and kinship. Third, the balancing mechanism is intended to overcome the gap as a whole, both within the community and government (politic).

The WNI in its institution has the tools to carry out its functions, the 14 organs it has must be filled with more or less 153 people to occupy all these positions. However, not all positions were successfully formed by Wali Nanggroe. The institutional structure of the WNI must be streamlined and simple, only important and effective organs in the implementation of the WNI functions should be implemented.

Furthermore, the position of Keurukon Katibul Wali is as a secretariat in the WNI. Article 7 of the Governor Regulation No. 13 of 2016 states, Katibul Wali has the task of carrying out general administration, finance, law and trial, planning and cooperation, data collection and information systems, the provision and coordination of expert technology required by the WNI in accordance with statutory regulations to empower the WNI. Katibul always performs and provides services to Wali Nanggroe when needed, such as experts and the relationship between Katibul Wali and the WNI all this time is cooperative, although there has been a commotion between Katibul Wali and the WNI because of miscommunication, it is common for new institutions and in the future we must be cooperative, increase it again or strengthen it again.

The regulations concerning the WNI must be strengthened again, especially the position of Katibul Wali with WNI, so that the task of the Wali Nanggroe functions can be implemented and realized as mandated by the Constitution of Aceh Government. So that the perception of the people of Aceh on the existence of WNI is not wrong. Because so far, the performance of the WNI is not optimal in carrying out its functions, due to Katibul Wali which is passive to WNI, so the public is only highlighting the existence of WNI while Katibul Wali is not.

As with financial issues, other field findings obtained by the Indonesian Representative Ombudsman Study Team in Aceh include the use of the budget ceiling from those plotted in the APBA for the activities of Keurukon Katibul Wali or the Secretariat General, not for the main activities of Wali Nanggroe, such as for the socialization activities of Wali Nanggroe and other main tasks. So the budget which has so far only been used for building operations, vehicles, employees, and so on, so that to support the operational activities of Wali Nanggroe was neglected. This is one of the causes of the non-functioning of the institution to its full potential.

The use of the budget for the Wali Nanggroe Institution since the 2017, 2018, and Fiscal Year 2019 as contained in the APBA document, apparently the majority of the Wali Nanggroe Institution budget was used for the needs of the Wali Nanggroe secretariat which is a supporting institution of Wali Nanggroe. According to the review of the Indonesian Ombudsman of the Aceh Representative, the budget devoted to the interests of Katibul Wali (Wali Nanggroe Secretariat) reached approximately 70%. Whereas to finance the activities and needs of Wali Nanggroe only around 30% of the total DIPA for Wali Nanggroe Institution is around 32 billion.

Wali Nanggroe is a personal, authoritative, independent leader who leads the WNI as a unifier of the people of Aceh and has the authority to foster and oversee the administration of the life of traditional institutions, customs, languages and the granting of degrees and other traditional ceremonies. The authority possessed by a Wali Nanggroe must be able to stand on its own and influence the harmony of governance in Aceh and with the Central Government, even though its authority is limited to giving advice and direction.

Personal requirements for structural positions, in the WNI Qanun there is not a single substance that mentions education as a requirement. Especially Wali Nanggroe, Article 69 Qanun No.8 Year 2012 there is not minimum educational provision for becoming a candidate for Wali Nanggroe. According to Article 29 Qanun.8 of 2012 concerning the duties and functions held by Wali Nanggroe, it is not possible for a personal Wali Nanggroe without an educational background and only to rely on specialized staves or experts provided by Katibul Wali. The quality of education in an independent institution leader and unifying the people of Aceh is very important, the authority of a leader and the character of a candidate for Wali Nanggroe greatly influences his performance in carrying out the WNI's great functions as a unifier of Acehnese society. The idea of Wali Nanggroe must be highlighted in the future life of the people of Aceh, especially in politics. Wali Nanggroe's position must be independent without any connection with any political party. According to Aceh indigenous peoples and JKMA activists that "Wali Nanggroe currently has not carried out all the duties and functions as mandated by Article 29 and 30 of the Aceh Qanun regarding the Wali Nanggroe Institution. The elements of reusam formation and fatwa must consist of MPA, MPD, MAA, so that the structure of Wali Nanggroe is not finished anymore, and coordination must be further improved. Furthermore, JKMA said that Wali Nanggroe should not be involved in the party and there must be movers in the field.



### III. CONCLUSION

The long history between Aceh and the Central Government, especially the issue of armed conflict, Aceh has the right to hold as a special autonomy region in the Republic of Indonesia. Article 18B of the 1945 Constitution as a form of state recognition of regions that have specificities. Law Number 18 of 2001 concerning Special Autonomy for the Province of the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam, was later replaced by Law Number 11 of 2006 concerning the Government of Aceh. Position of the Wali Nanggroe Institute (WNI) in Aceh is as a special institution and as mandated by point 1.1.7. Helsinki MoU and Law Number 11 Year 2006 concerning the Government of Aceh. Its existence is as a unifying institution of Acehnese society, leadership of the administration of customary institutions and maintaining the order of life of the Acehnese people as well as overseeing the harmony of governance in Aceh. Aceh Qanun Number 8 of 2012 concerning the Wali Nanggroe Institution and Aceh Qanun Number 9 of 2013 concerning Amendment to Qanun Number 8 of 2012 concerning the Wali Nanggroe Institution as the WNI's legal basis for supplementing its authority. The existence of such a large WNI structural organ is not proportional to its authority. The structural WNI should be streamlined in order to realize the effectiveness of the institution. The uproar between WNI and Katibul Wali has made the institution negative position in the eyes of the Acehnese public, due to its authority not being implemented properly. The position of Wali Nanggroe who was unable to exert his influence on the Aceh Public, so that the WNI position was considered to belong only to certain communities or certain groups. Wali Nanggroe's political attitude towards certain groups, to the series of uproar in Aceh, especially the DPRA and the Aceh Government, Wali Nanggroe was unable to exert influence as a unifying Aceh.

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