

Model of Local Wisdom Legal Source and State Law in Aceh Government

ZULFAN

Faculty of Law, University of Samudera, Jl. Kampus Meurandeh, Langsa Lama
Aceh, Indonesia
fan_djalil@yahoo.co.id

ABSTRACT

The initial process of the peace agreement between Indonesian Government and Aceh Free Movement in 2005 was through sociological, philosophical, juridical and political considerations. The Free Aceh Movement attempted to reconstruct the source of local wisdom law in Law Number 11 the Year 2006 regarding Aceh Government. It means that the 1945 Constitution of the Republic of Indonesia recognizes and respects Aceh's special government units. Essentially, the arrangement of placing the model of the source of the law of local wisdom exists to be enforced as a unity of law and facts cannot be separated. Consequently, law and implementation require unity of will. Why does the Free Aceh Movement love the arrange-

ments and practices of the old constitution and tradition? Because the source of Islamic Shariah, the foundation of the Aceh community life is articulated in the modern perspective of democratic and responsible state government. Basic aspirations of the specificity of Acehnese religious community life not only in the field of custom, cultural, social and political, but provide legal certainty in all affairs. The main target responds to the failure of state challenges to uphold the law, democracy, freedom of human rights and justice. The study was limited to how their wishes to change the concept of legal arrangements and practices worked in the real world, linking the legal unity with the facts of society to the two sets of legal documents governing Aceh. The study used normative approach, legal history, and comparative law. Juridically, there are two main goals to be achieved from the implementation of the arrangements and practices in this study. First, it places the differences and equations of both models of the source of local wisdom law and the design of state law. Secondly, it turns out that the concept of Acehnese legal culture highly values pluralism.

Keywords: Constitutional Law; Local Wisdom; Pluralism; Reconstruction; State Law.

1. BACKGROUND

Aceh is a large multicultural community, it is part of the culture of the archipelago area in which there are ethnic communities of Aceh. Some ethnics are dominant namely, Gayo, Alas, Tamiang, Kluet, Aneuk Jame, Singkil, and Simeulue.¹ and several Acehnese languages include Aceh dialect Aceh Besar, Aceh Pidei, and Aceh Utara. In addition to the Aceh language, there is Gayo language (Gayo Lut, Gayo Deret, and Gayo Lues). Aneuk Jamee (plain language) in South Aceh district, Alas language (Kuta Cane Aceh Tenggara), Tamiang language, Simeulu language (Sinabang), Singkil language and Kluet language (South Aceh). Islam one of the Aceh community's religions has influenced various aspects of life, behavior, social economy, politics, law and government.² Some Acehnese have known one element of Western culture, that is, modern education is imposed from the outside. As a result, there are changes in the structure of Acehnese society.³

Initially, the government of Aceh is the territory of the Sultanate founded Sultan Ali Mughayat Syah (± 1514-1528) XVI century, The capital of Bandar Aceh Darussalam or Aceh Raya (current location of Banda Aceh City). The end of the Acehnese sultanate of the XIX Century, once connected to the international world.⁴ As a result of the great Dutch colonial war (1873-1903) for 30 years the people of Aceh, both men, and women, struggled to defend their religious and national interests against the Dutch,⁵ followed by the 1942-1945 Japanese army occupation.⁶

The existence of the concept, arrangement, and practice of the division of powers of the Acehnese government during the Sultanate can be traced by the model of written law source of Adat Meukuta Alam (*geschreven rechts*) and Sarakata (*besluit*).⁷ In addition, an unwritten legal source of Tradition (*ongeschreven rechts*).⁸ The content of these two legal sources, describing the Acehnese government of Sultan Iskandar Muda (1607-1636) is familiar with the legislation, government, trade, human rights and international and environmental interactions. Nevertheless, the Dutch continued to use the source of the law until the Japanese occupation of 1942-1945.⁹ Thus, the collective memory of the success of Aceh's

past government needs to be re-socialized to the community to generate the aspirations of local wisdom for the future life of the Indonesian statehood.

Since Aceh has joined one of the provinces within the Unitary State of the Republic of Indonesia, it has been coloring the dynamics and changes of the Indonesian state administration since 1945.¹⁰ Understanding Aceh should have its historical traces of the past. That is because in Aceh community life history marked various social, cultural, political, economic, law and governance. Talking about Aceh has always provoked a debate that has made people so impressed and attracts much attention and controversy and misinterpretation of national and even international conflict issues.¹¹ The series of incidents of constitutional law of the Aceh government is not only seen from the long history of the struggle of Acehnese people to seize independence in 1945 but the earthquake and tsunami of 26 December 2004 claimed the loss of life, property and destroyed various civilization infrastructure in Aceh. Not even apart from all the barrage of questions of conflict of interest of power.

Conflicts occurred since the Old Order (1949-1959), the New Order (1976-1998), the Reform Era (2000-2005). Finally, a Memorandum of Understanding (MoU) signed on August 15, 2005, was not reached by the Aceh provincial government. However, the Indonesian government and the Free Aceh Movement.¹²

Based on the memorandum of understanding, it is agreed that Aceh has the right to exercise the authority of its own government widely, recognizing the principle of separation of legislative, executive and judicial powers free from any influence and shelter under the constitution of the Republic of Indonesia. The delegation of rights and authority, the central government is responsible for the implementation of foreign relations, state defense, national security, monetary and fiscal, judicial power and foster religious harmony. Thus, in order to implement the memorandum of understanding, it is agreed as a requirement that the points of understanding be stipulated in a law of the Republic of Indonesia. Contains a basic understanding, ie, the authority of self-government extensively for Aceh. Given the past condition of Aceh full of instability, discom-

fort, injustice, and gloom, towards a safer, peaceful, fair, prosperous and dignified life. This, the government of the Republic of Indonesia should propose a draft Law of the Republic of Indonesia concerning the implementation of the Aceh government to the Parliament to be discussed together to be established by law. Finally, the political process becomes a common spirit of reference through philosophical, juridical, sociological and political considerations underlying Law No. 11 of 2006 on Aceh governance.¹³

Based on the content of the constitutional content of the 1945 Constitution of the Republic of Indonesia, acknowledging and respecting the units of Aceh's government is specially regulated by law.¹⁴ This, in relation to the typical character of the history of the struggle of the Acehnese people, has the resilience and high fighting power sourced from the Shari'ah of Islam. The life of religious Acehnese society is articulated in a modern perspective on a democratic and accountable state. The dynamic aspiration of Aceh's privilege to provide legal certainty in all matters.¹⁵ Thus, the historical norm of constitutional law that lives and develops in Aceh society is a manifestation of popular sovereignty.

This study is in the framework of the comparative study of law extent of constitutional concepts, arrangements, and practices in two models of local wisdom law sources of Aceh governance during the sultanate. In addition, the constitution of the 1945 Constitution of the Republic of Indonesia recognizes and respects the Aceh government units, so that it can still be implemented in the context of the current Aceh Government.

2. FOCUS AND ISSUES OF STUDY

This study refers to the paradigm of two models of local wisdom law sources of Aceh governance during the sultanate, namely, the written law source (*geschreven rechts*) of Adat Meukuta Alam and Sarakata, including democratic governance, decentralization, human rights, trade, diplomatic and environment.¹⁶ In addition, the source of the unwritten law (*ongeschreven rechts*) is a tradition.¹⁷ Furthermore, it has undertaken reconstruction in a written legal source (*geschreven rechts*) of Law Num-

ber 11 the Year 2006 concerning Aceh's current government.

Research in the focus of this study required the similarity of legal norms of local wisdom for the future of the Aceh government. In terms of regulatory and regulatory arrangements of power-sharing that have taken place in Aceh government. Thus, the study is the provision of legislation to regulate the norms of power-sharing within the Aceh government and its implementation. Placing differences and similarities in other entities there is a written legal source (*geschreven rechts*) of Law Number 11 the Year 2006 on Aceh's current government as the focus.¹⁸

The study is limited to how they wish to change the concept, the arrangement of the special autonomy power division and the legal practice of work carried out in the real world, linking the legal unity with the facts of society on two sets of historical documents of constitutional law accommodated in Law 11/2006 on Aceh Government is comprehensive, the overall governance of Aceh through Qanun Gampông Government,¹⁹ Qanun Mukim Government,²⁰ Qanun District Government,²¹ Qanun District/City.²²

Based on the background that has been described, the research problem examines the emergence of concepts, arrangements and constitutional practices on two models of local and existing local wisdom laws, Aceh legal institutions, equality and different legal institutions. Based on the results of the study can be seen the legal issues that arise as well as formulated thoughts about the existence of rules of norm implementation of Aceh's government. The main target responds to the failure of state challenges to uphold the law, democracy, freedom of human rights and justice.

3. ANALYSIS AND DISCUSSION

3.1. Division of Power Theory

John Locke (1632-1704) through Triassic Theory of Politics states, the importance of guaranteeing individual rights, popular sovereignty, majority rule, power sharing, constitutional monarchy and parliamentary system of government. The state is limited in scope, guaranteeing the freedom of citizens. The duty of the

state to maintain law and protect the people. Legislative power is formed by the people's agreement, the supreme authority is not arbitrary and remains in the hands of the sovereign people and has the right to withdraw its support and overthrow the government if it is deemed to fail to assert trust.²³ Locke centralized sovereignty in one place, just as the British parliament (Westminster) has supremacy sovereignty of parliament without the use of judicial review.²⁴ John Locke simultaneously opens up new directions of political thought with the argument: One organ has one function and can be operated by only one organ. The reason, Locke incorporates judicial power into executive power, no fixed law accepted by all, can be applied as a rightly wrong standard, a judge neutral in interpreting and applying the law to the opposition, otherwise no institution is authorized to exercise. The role of law to achieve order between autonomous authorities results in the jurisprudence of the social order based on decentralized pluralism on the shape of institutional practice.²⁵

Different tries of politics Montesquieu (1731-1748) placed sovereignty in three places, namely, executive, legislative, judicial, resulting in a system of checks and balances followed by judicial review. However, this political triage was re-altered according to the system of the United States government by making checks and balances. Montesquieu added that the division of powers (separation of powers) sees the need to separate the power of the state in 3 (three) branches, among others: (1) Legislative power, the government needs a representative. The advantages of a representative system put quality people on duty to discuss public affairs. Representatives need not consult each issue with the representatives. (2) The power of the executive must be in the hands of an individual. So that the executive does not participate in the debate or let alone propose the law. (3) Judicial power, at least maintaining the judicial power remains independent. Such powers shall be exercised by the judges.²⁶

Arthur Mass distinguishes the notion of division of powers into two terms: (1) The functional (capital division of powers) is horizontal; (2) Territorial or regionalism (a territorial division of powers) is vertical. In

addition to the federal and state governments, and autonomous regions as well as the central government in the structure of the unitary state. The term separation of powers is identified with the distribution of powers, in fact having the same meaning and depending on the context of the shared notion.²⁷

3.2. Theory Separation of Powers

Hans Kelsen in *General Theory of Law and State*. A theory of law and state that describes the separation of powers is practical, both on politics and on government. Hans Kelsen holds that the concept of separation of powers indicates the principle of political organization. This concept postulates that the three areas of executive, legislative and judicial power can be determined by three distinctly coordinated state functions that separate each function. However, the argument is not born of fact. The basic function of the state is not just three but two, the establishment and implementation or implementation of law and function are coordinated in stages. Furthermore, it is impossible to determine the boundaries of separating functions from one another, since the difference between the formation and application of law underlies the dualism of legislative and executive power.²⁸

Decentralization through regional autonomy is an introduction to the idea of democracy. The organs of making regional norms are selected subjects from these norms. The autonomous unit is the Kotaraja or municipality and the mayor. This is an autonomous and decentralized regional government. Decentralization refers only to a particular issue concerning the special interests of the region, the scope of authority of the Kotaraja or the municipality is limited to the level of specific norms. Regional autonomy typically describes a relatively decent type of decentralization. Norms are made by organs of a final and free nature, at least in favor of the central administrative organs of the state.²⁹ The relatively high degrees of decentralization are enjoyed by autonomous bodies, in particular municipalities or municipalities in the modern state. In principle, it can be traced from the historical fact that the Kotaraja was born when the countries, in particular, the central organs had an autocratic character, while the local gov-

ernments of the cities were more or less democratic. Decentralization of local governance is held democratically means the removal of the influence of autocratic central organs. Regional autonomy is only a certain stage of state administration.³⁰

John Locke states in essence, one organ can have only one function or otherwise one function can only be executed by one organ. Locke incorporates judicial power in the executive power, no fixed law accepted can all be applied as a rightly wrong standard, neither does a neutral judge interpret and apply the law to contradictions, in the absence of any authority to exercise.³¹ Locke added that the origin of the separation of powers lies in the division of powers so that one person or group of people will not have the right to both the authorities and the enforcers. Scholars adhere to the separation of powers with the idea of preventing legislative powers, though accustomed to thinking about horizontal and vertical division of power in branches of national government between state and federal government levels and providing guidance on constitutional interpretation.³²

Arend Lijphart proposed two concepts to classify the types of power-sharing of central regions namely, (1) the Federal State with the Unitary State (2) Centralization and Decentralization. The federal state system has a formal constitution and shares power between central and local governments. Federalism here is defined as a political activity of an organization in a government divided between the regional government and the center so that each type of government has several activities in making the final decision. Instead, the Unitary State system is where the constitution forms a formal mix between central and local governments. The centralized system is where political and economic power is centralized in the central government. In contrast, the decentralization system is where the economic and political power is shared between central and local governments.³³

3.3. Theory of Justice

John Rawls basically through the theory of justice equal liberty states that a just constitution is defined as a constitution approved by rational and honest repre-

sentatives in trials guided by the principles of justice. If it would justify an existing constitution, in this case, give reasons or considerations that the constitution is indeed made based on actual facts or facts. Conversely, if you want to criticize law and policy, it must be able to show or prove that laws and policies are not formed through the ideal procedure. Rawls adds, in which the main ways social institutions share rights and obligations and establish sharing of benefits of cooperation and social values, including rational, free and equal in wealth, freedom and opportunity and self-esteem. The task of justice as fairness is to establish rights and obligations in a balanced way. Therefore, freedom must be accompanied by an awareness of responsibility. Without such a balance will bring man into the legal civilization of the jungle. Justice theory as fairness can only be applied in an ideal society that is a democratic society. This means that the people are subject to the legal regulations that are made, accepted, and acknowledged by the society. One of the traits of appealing the principle of justice is to guarantee the equal protection of every citizen.

John Rawls divides 2 terms of a just constitution in a democratic system: First, constitutional democracy is characterized by a representative body elected through fair elections responsible to its electorate. People's representatives as legislatures make social rules and policies. Second, democracy is a strong constitutional protection of freedom of thought, speech, and freedom of assembly. Justice as a balance provides a strong argument for equality of liberty of conscience (an equal liberty of conscience). John Rawls assumed that: The argument was held to choose a government regime to guarantee moral liberty, freedom of thought and belief, and freedom of religious practice. the state must uphold the moral of religious freedom (moral and religious liberty). Justice and the principle of honesty require that institutions are just. The principles of natural duty and obligation apply to individuals. The first two sections examine the reasons why these principles are selected in the original position and their role in equal community co-operation by giving hope to the principles of obedience and loyalty.³⁴

The three theories that have been described above

have described both systems of government using the principle of checks and balances. This theory examines the existence of concepts, arrangements, practices for implementing the ideal. Thus, here we can see at a glance comparison of the history of constitutional law in both the government system of Aceh during the empire based on two models of written law source of Mekuta Alam and Sarakata. In addition, the source of the unwritten law is a tradition. While the current government of Aceh in the Unitary State based on the constitution of the 1945 Constitution of the Republic of Indonesia and Law Number 11 the Year 2006.

3.4. Philosophy of Hadih Maja Theory and Practice (1607-1678 M).

The results of the authors say Hadad Maja philosophy is a theory and practice that no doubt in the life of the people of Aceh since (1607-1903 M).³⁵ Before the birth of the theory of Division of Power (distribution of power) introduced by Montesquieu (1689-1755 M), and John Locke's theory, Hans Kelsen and John Rawls's theory of justice on the distribution of power and justice.

The results of the authors say Hadih Maja philosophy is a theory and practice that no doubt in the life of the people of Aceh. Before the birth of the theory of Division of Power (distribution of power) introduced by Montesquieu (1689-1755 M),³⁶ and John Locke's theory, Hans Kelsen and John Rawls's theory of justice on the distribution of power and justice.

The reason is that these theories and practices have been used and developed in the Aceh Sultanate of Iskandar Muda through the Hadih Maja (1607-1637 M) theory of law and state, gave birth to legal norms in the distribution of power to run the Gampong Mukim, Nanggroe, and The Sultanate. While Sultanah Nurul Alam Naqiatuddin Syah (1675-1678) established the Aceh Three Sagi (Aceh language: *lhee sagoe*) government, by continuing what already exists as the government of Gampong, Mukim, Nanggroe, Sagi (Aceh language: *sagoe*) and the Sultanate. Both of them there are differences and similarities, the Sultan Sultan Iskandar Muda gave birth to the government of Mukim and Sultanah Nurul Alam Naqiatuddin Syah made the government

of Aceh in three areas, until the end of the reign of Aceh during the sultanate.³⁷

Hadih Maja is an Acehnese philosophy of life and a guide (theory) of power-sharing that has been practiced in the reign of Aceh during the sultanate, a guide in personal life, household, and community life in general. In this connection was born the juridical idiom of *Adat Bak Poteu Muereuhôm*, meaning *Adat* (Government, Law), its role according to Poteu (Sultan), while Muereuhôm (deceased) Sultan Iskandar Muda. After Sultan Iskandar Muda died Adat Meukuta Alam is also called Adat Poteu Muereuhôm, meaning that the deceased Sultan Iskandar Muda's legislation is always guided by the next Sultan and is considered sacred by the people of Aceh.

This is shown from the data of manuscripts of Aceh and the old Malay.³⁸ As stated in Hadih Maja's juridical theory through the written law source (*geschreven rechts*) of Adat Meukuta Alam (abbreviated as AMA) and Sarakata (letter of a decree), as well as the source of the written law (*ongeschreven rechts*) in the form of Tradition. Based on these two sources of law have shown the life of the nation and state in Aceh, able to organize the life of a unique, egalitarian, sustainable society in preparing the earthly life and ukhrawi. While the theory of the concept of justice is clearly visible on the currency by including the expression of a just king like *al-sultan al-'adil* and *al-malik al-zahir*. That is, the Malay Kings seek to rule in accordance with their position as Muslim kings who follow God's command.³⁹ Both theories illustrate the concepts, arrangements, and practices of power sharing as well as the concept of justice on an ongoing basis.

Philosophy (theory) Hadih Maja in Aceh Government during the empire distributed power in four state institutions as follows: *First*, Adat Bak Poteu Muereuhôm, (Indonesians: the holder of political power and custom is the Sultan as the Executive Institution. *Second*, the law of Syiah Kuala, (in Indonesian: the holder of the rule of law is the ulama as the Judicial Institution. *Third*, Qanun Bak Putro Phang (in Indonesian: the power holder of the legislator is the daughter of Pahang symbol of the people as the Legislative Institution. *Fourth*, Reusam Bak Lakseumana/Bentara (in In-

Indonesia: All regulations made by the Armed Forces Commander when the country is in a state of war (emergency), all power is in the hands of the Commander in Chief of the Armed Forces) as Reusam Institution.⁴⁰

The above theories reinforce each other, where the freedom of prosperity of the people cannot be achieved without the presence of the state able to perform the role effectively. Conversely, a strong state without guaranteeing the freedom of citizens' welfare cannot last long. Marked the ability to ensure legal certainty and policies are born obeyed by the community, without having to spread threats, coercion, and excessive anxiety. The basic elements of a strong state of effective and institutional authority.⁴¹ Such a life order is possible to be preserved in the life of nation and state in the Unitary State of the Republic of Indonesia which adheres to the motto of *Bhinneka Tunggal Ika*.⁴² It is proven that the Hadih Maja Philosophy is still being re-adopted in the Law on the Governance of Aceh today.

4. CONCEPT

4.1. Sources of Customary Law of Adat Meukuta Alam, Sarakata and Tradition

Adat Meukuta Alam is the name of the Constitution of Aceh during the Sultanate. The meaning of the term Adat Meukuta Alam used is (*adat* = regulation), (Acehnese: Meukuta Alam or Malay: Mahkota Alam) is a title given to Sultan Iskandar Muda,⁴³ and after death known by name (Acehnese: Marhoem or Indonesian: The deceased) Mahkota Alam,⁴⁴ abbreviated to the AMA. The word *adat* in the life of the people of Aceh has more than one meaning, namely: (a) Habit, prevalence, rules, regulations, customs (*ancestors*). (b) Fees for taxes, duties, gifts, and fixed wages. (c) Reverence, and courtesy. Understanding the law in Aceh is Islamic law (*shari'a*), and inseparable from custom. That, in the philosophy of the Acehnese people's life, reads: (Acehnese: *hukum ngon adat lagee zat ngon sifeut*) that is, (laws with customs such as substances with properties), both cannot be separated.⁴⁵ Thus, the philosophy of Hadih Maja is a representation, the crystallization of the social values of Acehnese culture is closely related to the values of customary law and legal pluralism that

has always been alive and united in the life of the people of Aceh until now. In this case is the religion of Islam. This philosophy comes from Religion (divinity), Religious (belief), and Sastra (intelligence). In addition, the people of Aceh appreciate the pluralism that has been applied to the Aceh government past and present.

Sarakata is a confession certificate, king's decree, royal decree, and grant or loan certificate.⁴⁶ While tradition is a habit that lives and develops in Aceh society or known as *Adat*.⁴⁷ *Adat* refers to the norms of human behavior. The people of Aceh generally consider the customs are made and arranged by the sultans.⁴⁸ *Adat* is published by the law and the country's reusam, arranged through the consensus of the Sultan with his superior.⁴⁹ *Adat* as a weapon (sword) kingdom and folk castle. *Adat* Aceh mostly comes from Islamic law (*syara*). This can be seen in the duties of the Acehnese government during the sultanate.

4.2. The Governance of Aceh Sultanate Period

The reign of the Sultanate of Aceh (1514-1903) is its own sovereign government in the royal system already making concepts, arrangements, and practices based on written law sources of Adat Meukuta Alam, *Sarakata*, and Traditions. According to the chronicles of Aceh, the division of state administration is contained in several forms, namely, Gampong, Mukim, Nangroe and the Kingdom area in the reign of Aceh during the Sultanate.⁵⁰ *Sarakata* is rules to centralize power, change in the field of state or religious. Ulama in his capacity as the chief advisor of scholarship plays an important role in both political, economic, religious and legal matters. The goal, directing and offsetting foreign policy as well as European powers.⁵¹ A very interesting source to know about the reign of Aceh during the Sultanate can be traced through the official letters of the Sultanate of Bandar Aceh Darussalam in the form of Malay script (Javanese Arabic).⁵²

At a glance the composition of the Aceh government during the Sultanate, the highest position held by the Sultan/King as the control center of power. In addition, assisted by officials namely, Keurukon Katibul Muluk (secretary of the present state).⁵³ Sagi (Acehnese: *sago*,) or three territories under the sultan namely, 26

Mukim, 25 Mukim and 22 Mukim. Power held by Commander Sagi (Acehnese language: *panglima sago*,) means, the coordinator/supervisor of the region. The government of nanggroe or kenegerian corresponds to the self-governing kingdom referred to in customary law. In general, this is similar to the provisions set forth in the new regulations namely, *kenegerian swapraja* (*zelfbesturend landschap*).⁵⁴ The *kenegerian* leader is called uleebalang (Indonesian: *hulubalang*) is an executive and is established by tradition for generations.⁵⁵ The mukim administration is a merger of villages (Acehnese: *gampong*). The mukim administration is led by an Imuem (head) or as an executive head a unity of territory.⁵⁶ The Gampong government of the smallest territory (Indonesian: *village/lurah*) headed by head and village secretary (Acehnese: *keuchik* and *waki*).⁵⁷ thus, centralized governance has spawned a check and balances balance of power, between the King and the region's leaders and influential public figures.

4.3. Aceh Government within the Unitary State of the Republic of Indonesia

The Aceh Government is now governed by the Constitution of the 1945 Constitution of the Republic of Indonesia,⁵⁸ through Law Number 11 the Year 2006 on Aceh governance,⁵⁹ a breakthrough in the political democratization of regional autonomy and decentralization in Indonesia. The law is the first written legal document to address the issue of prolonged conflict in Aceh after several attempts to bring peace to a standstill. The MoU peace memorandum of understanding has become a milestone of peace between the Government of the Republic of Indonesia and the Free Aceh Movement, mandating the establishment of a new law to regulate the widespread autonomy of the Aceh government. Thus, the establishment of the Act becomes a good opportunity to design future governance. The essence of all this required a sincerity and honesty, the sincerity of the parties to build mutual trust among the nation's children.⁶⁰ Central government authority for Aceh as a whole has been shared through this legislation unless matters should be the central authority. This means that the strength of the Aceh government both at the executive and legislative levels is enormous.⁶¹

5. DISCUSSION

5.1. Reconstruction Model Source of Law of Local Wisdom Aceh

Post-reform of the central government provides asymmetric decentralization throughout the province. The reason, asymmetric decentralization is the settlement of the conflict, the redistribution of natural resources injustice and the social and cultural uniqueness of each region. Asymmetric decentralization (special autonomy) or local government has autonomy in the sense of self government. Therefore, relationships with others are not hierarchical. Given the condition of local communities diverse, then local government and local autonomy also varied. Thus, the function of decentralization (devolution) has accumulated a plurality of local people's aspirations. Decentralization (devolution) gives birth to political variety and structural variety.

The Indonesian Constitution initially has placed regional autonomy as one of the important joints of state administration. Decentralization is not a principle but a process. The Principle is autonomy and duty of assistance. Deconcentration is a centralized subsystem of how to organize a centralized system. In other words, deconcentration is a centralized instrument. Indigenous peoples are communities based on customary law or customs such as villages, clans, nagari, gampong, meunasah, huta, negorij. The legal community is a territorial unity of society or genealogy has its own wealth. The unity of this legal community is not only recognized but respected, meaning it has an equal right to life and is as important as the unity of government such as regency /city. Equality means the unity of the legal community based on customary law is entitled to all treatment and given the opportunity to develop as a subsystem of Unitary State of the Republic of Indonesia is advanced, prosperous and modern. This is the essence that distinguishes colonial recognition of the unity of indigenous and tribal peoples. The colonial administration did not intend to respect but allowed the unity of indigenous peoples to live traditionally so as not to disrupt colonial rule.⁶²

The basic concept of this research is decentralization through regional autonomy. Decentralization is

derived from Latin means de-center and centrum mean center. Decentralization originally said to be released from the center. Decentralization is a mandate for the establishment of a modern state, especially those countries where the tradition of power belongs to the nobility. The origin of decentralization is a re-abatement of power and authority that the state has gained or the way the state performs its duties effectively and efficiently, a strategy of making democracy work within the state. If decentralization is defined as the framework of modern democracy design, it must create the spread of sovereignty power of the people have a big role in realizing and managing the modern government.⁶³

5.2. Special Autonomy of Aceh Government

Aceh Province is now part of the Unitary State of the Republic of Indonesia based on the 1945 Constitution of the Republic of Indonesia, the implementation of government affairs implemented by the Aceh government and the Aceh House of Representatives in accordance with their respective functions of the authority.⁶⁴ The shift of the norm gave birth to a concept of democracy in a modern state, bringing the welfare of civil society. This, considering our return the concept of a kinship state the goal of prospering and prospering the people. The fact that social norms reappear, due to the influence of external cultural values, may not necessarily be accepted by the value of the model of the source of the law of local wisdom already integrated into every life of the society itself. However, as the period of social change of Acehnese changes, all indicators are social in a positive way. In particular, Acehnese agrarian society became an industry, so the level of confidence in customary institutions was re-established. The basic element of establishing an Acehnese government is the full authority of self-regulation,⁶⁵ as the special autonomy⁶⁶ is based on matters of institutional affairs at the central level either in the form of department or non-department. In essence, central government policy must be clear, so that the functions and responsibilities implemented by the Aceh government can be accommodated partly in the regional institutions.

Special Province of Aceh local cultural wisdom in

the form of knowledge, values, norms, and traditions in Aceh society. Local capability in the form of creation, innovation, identity, characteristic and symbol of society itself. Besides that, there are also models of typical mukim administration and special government institutions, such as privileged bureaus, Islamic *Shari'a* offices, and *shari'a* courts. These government institutions are a product of the local capacity of the Acehnese.

One of the specificities of governance in the province of Aceh is revived five levels of government organizations namely, Provincial Governments, District / City, District, Mukim, and Gampong. The revitalization of the government organization requires, of course, an adjustment of the organizational structure of duties and authority, as well as the naming of Government positions at each level by elevating customary values that still fulfill the principle of benefit for practice in the Mukim and Gampong administration system.⁶⁷

5.2.1. Provincial Government

The history of the long struggle, demands, desires, and aspirations of the Acehnese people gained Special Autonomy right in the administration of local government. Finally, it was realized by Law Number 11 the Year 2006 regarding Aceh Government. Thus, the very basic thing in the Act is the Aceh provincial government with the people through the Aceh House of Representatives, given the opportunity and great freedom to organize and manage their domestic affairs almost in all areas, except in the field of foreign policy, external defense and monetary policy, in accordance with Special Autonomy granted by the Law to support the implementation of Special Autonomy including the utilization of economic resources, to explore and to empower natural resources and human resources, to foster and develop community initiatives and creativities and to realize democracy in governance in all sectors.⁶⁸

5.2.2. Qanun District/City Government

District or City or any other name is the Region within the Province of Aceh shall have the right to regulate and administer its domestic affairs in the implementation of Special Autonomy.⁶⁹ Regent or Mayor or any other name, is the Head of the Executive Board

of the Regency or City in performing his duties, functions, and authorities assisted by a Vice Regent or other name or Vice Mayor or any other name.⁷⁰

The Regional People's Legislative Assembly shall be the Regional House of Representatives of the Regency or City as the Legislative Body, which performs the functions of legislation, budget, and supervision. District Government and City Government, is the Regent or Mayor and other District or City apparatuses as the District or City Executive Board.⁷¹ Qanun Kabupaten or City is a Regency or Municipal Regulation established by the Regent or Mayor by mutual agreement of the Regional House of Representatives of the Regency or City.⁷² The decision of the Regent or Mayor is a Decision set by the Regent or Mayor as the implementation rule of the Regency or City Qanun or other Legislation.⁷³

The authority of the Regency or City is the authority in the context of the implementation of Special Autonomy and other authorities under the applicable Laws and Regulations.⁷⁴ (1) The authority of the Regency or City shall comprise the authority of all areas of Government, except for those areas which are the authorities of the Province which already exist and shall be stipulated by the Provincial Qanun. (2) Implementation of Regency or City authority as referred to in paragraph (1) of this Article shall be stipulated by Regency or City Qanun. (3) Implementation of special autonomy authority.⁷⁵

5.2.3. Qanun District Government

Based on the nature of the autonomy specificity granted by the Governor upon the approval of the Aceh Provincial People's Legislative Assembly, the authority to set up/re-establish the organization, the regional apparatus is the sub-district administration, Mukim, and Gampong in the Provincial Qanun. Adjustment of the regional apparatus, in addition to the adjustment of the name of the office, if deemed necessary to make adjustments of work units within the relevant governmental organizations according to the needs and the nature of the specificity it possesses.⁷⁶

This Qanun stipulates the organizational structure,

position, duties, and functions of sub-district government. In this qanun arranged organizational structure, position, duties, and functions of sub-district government no longer adhere to minimal organizational patterns and maximum organizational patterns of sub-districts as applicable nationally. This is based on consideration in the practice of governance so far, there is almost no difference in treatment of the Kecamatan with minimal organizational patterns and sub-districts with maximum organizational patterns.⁷⁷ In addition, the Organizational Structure, Position, Duties, and Functions of Sub-districts stipulated in this Qanun, the addition of new work units called the implementation section of Islamic Shari'a and custom development, as one of the efforts to implement the four features of Aceh.

5.2.4. Qanun Mukim Government

Qanun Nanggroe Aceh Darussalam Province Number 4 the Year 2003 About Mukim Government In Nanggroe Aceh Darussalam Province, the existence of Mukim as a direct governmental device is under and responsible to the Camat.⁷⁸ Mukim government both before and after independence has been quite instrumental in organizing and fostering the lives of people in Gampong. Mukim not only has been able to play an active role in controlling the running of Gampong government, but also in maintaining order, harmony, peace and community development. Moreover, its role in heightening the religious awareness of Islam, maintaining, guarding, defending, applying and enacting customs and customary law in society is very prominent, so that Mukim became the base of the nation's struggle when war seizes and defends independence.⁷⁹

Based on the facts mentioned above, the existence of Mukim as a unit of customary law community that has been alive and rooted in the life of the people of Aceh needs to be maintained, nurtured and preserved, so that Mukim will remain intact, tough and responsive in following the development of state administration and national development demands.⁸⁰ Mukim or other names is a legal community unit within the Province of Nanggroe Aceh consisting of several Gampong

gangs with certain territorial boundaries and their own assets, domiciled directly under *Camat* or other names led by *Imeum Mukim* or other names.⁸¹

Mukim has the task of organizing the government, the implementation of development, community development and the improvement of the implementation of Islamic *Shari'ah*.⁸² To carry out duties as Mukim has functions: (1) good governance based on the principle of decentralization, deconcentration, and matters of duty of assistance and all other governmental affairs. (2) Implementation of development of both economic development, physical development and spiritual mental development. (3) Community development in the field of implementation of Islamic Shariah, education, socialization, social culture, peace and order of society. (4) Increasing the acceleration of service to the community. (5) Settlement in order to decide and or establish law in the event of any disputes or cases of customary law.⁸³

5.2.5. Qanun Gampong Government

The content of Act No. 18 of 2001 on Special Autonomy for the Special Province of Aceh as the Province of Nanggroe Aceh Darussalam contained the status of Gampong as the lowest governmental organization no longer directly under the District but has undergone a change that is located directly under the Mukim. With the change of position, and in accordance with the specific character of autonomy rights granted to the Province of Nanggroe Aceh Darussalam, it is necessary to reorganize the position, function, and authority of Gampong, both in general governance and efforts to strengthen the organizational structure/institution, is expected to be able to arrange and manage their own households, in addition to being able to carry out four privileges at the Village level as intended in Law Number 44 Year 1999 concerning the Implementation of Special Features of Aceh Province.⁸⁴ With the enactment of Mukim as one of the levels of government organization directly under the Sub-District, the Gampong's position is no longer under the Sub-district but is under Mukim.⁸⁵ Gampong or another name is a legal community unity that has the lowest governmental organization directly under the Mukim or an-

Table: 1. Thirty Decentralized Affairs to the region

NO	FIELDNAMES	NO	FIELDNAMES
1	Education	16	Capital investment
2	Health	17	Culture and Tourism
3	Public Works	18	Youth and Sports
4	Housing	19	National Unity and Domestic Politics
5	Spatial planning		
6	Development Planning	20	Regional Autonomy, Public Administration, Regional Finance Administration,
7	Transportation		
8	Living environment		
9	Land	21	Personnel, Coding
10	population and civil registration	22	Community and Village Empowerment
11	Women's Empowerment and Child Protection	23	Statistics
12	Family Planning and Family Welfare	24	Archives and Libraries
13	Family Welfare	25	Communication and Informatics
14	Social Manpower and Transmigration	26	Informatics
15	Cooperatives and Small and Medium Enterprises	27	Agriculture and Food Security
		28	Forestry
		29	Energy and Mineral Resources
		30	Marine and Fisheries Trading Industry.

Source: Legal Bureau (Task Force) Regional Secretary of Aceh Province, 2008.

other name occupying a certain territory, led by *Keuchik* or other names and is entitled to conduct its own household affairs.⁸⁶

Tuha Peuet Gampong⁸⁷ or another name is a substitute for the term *Lembaga Musyawarah Desa* (LMD) according to Law Number 5 the Year 1979⁸⁸ or Village Representative Body according to Law Number 22 the Year 1999.⁸⁹ Tuha Peuet Gampong or another name is Gampong Representative Body consisting of elements of ulama, traditional leaders, community leaders and clever people in Gampong.⁹⁰ Reusam Gampong or other names are the rules, clues, customs laid down by *Keuchik* after the approval of Tuha Peuet Gampong.⁹¹ Gampong Government is *Keuchik* and *Teungku Imeum Meunasah* and Gampong Devices.⁹² Gampong Government is the implementation of government implemented by Gampong and Tuha Peuet Gampong.⁹³ Each Gampong makes decisions to further regulate its powers and the implementation of the Provisions on Customs and Customs.

Table: 2. The Compulsory and optional government of Aceh.

NO	AFFAIRS REQUIRED	NO	AFFAIRS REQUIRED	NO	AFFAIRS OF CHOICE
1	Education	12	Food security	1	Marine and Fisheries
2	Health	13	Women's Empowerment and Child	2	Agriculture
3	Living environment	14	Protection Family Planning and Family	3	Forestry
4	Public Works	15	Welfare	4	Energy and Mineral Resources
5	Spatial planning		Land National Unity and Domestic		Tourism
6	Development Planning	16	Politics	5	Industry
7	Housing	17	Regional autonomy	6	Trading
8	Youth and Sports		General Government	7	Transmigration
9	Capital investment	18	Regional Financial Administration,		
10	Cooperatives and Small enterprises and Medium		Personnel, and Coding		
	Population and Notes	19	Community and Village Empowerment		
11	Civil	20	Social		
	Power Work		Culture, Statistics, Archives and		
			Libraries		

Source: Legal Bureau (Task Force) Regional Secretary of Aceh Province, 2008.

6. GOVERNMENT AFFAIRS AND AUTHORITY OF ACEH

In the special autonomy corridor, there are at least thirty sectors of central government affairs which are decentralized to duty-related areas of obligation to provide basic services as well as optional sector-leading development affairs. See **Table 1** and **Table 2**.

6.1. Mandatory Affairs of Special Governance of Aceh

Affairs must be the special affairs of the Aceh government, namely: (a) Implementation of religious life in the form of implementation of Islamic law for the followers in Aceh while maintaining the harmony of life among the *umma*. (b) Implementation of customary life of Islamic religion. (c) Implementation of quality education and increase local content based on the *shari'a* of Islam and the role of ulama in determining the policy of regency /city. (d) The role of the ulama in establishing the Aceh policy. (e) Implementation and management of Hajj according to the laws and regulations.⁹⁴

6.2. Special Affairs and Specialties on Institutions in Aceh

The Government of Aceh based on the content of Law Number 11 the Year 2006 on Aceh governance

regulates two kinds of regional institutions, namely: First, institutions are the same as other regions. However, it has specific and additional duties and authorities such as (a) the Governor of Aceh, elected by General Election as a candidate nominated by a local Party and an independent candidate. Has special and additional duties and authorities that is, implement and coordinate the implementation of Islamic *Shari'ah*. Give consideration to the policy directly related to the Aceh Government. Approving the appointment of the Chief of the District Police Officer,⁹⁵ and the Chief of the High Prosecutor.⁹⁶ Establishing a selection policy for non-commissioned officers and officers of the National Police of the Republic of Indonesia by the Aceh Police;⁹⁷ (b) The number of members of Aceh's House of Representatives 125 percent of the national provisions. Selected through elections followed by national parties and local parties have an additional special authority that is, giving consideration to the plan for making international agreements directly related to the Aceh government. Directing consideration to the Draft Law by the House of Representatives of the Republic of Indonesia is directly related to Aceh; (c) and proposes the establishment of an Independent Election Commission for Aceh and the Election Supervisory Committee.

Second, special institutions in Aceh such as (a) *Wali Nanggroe Institution* is an adat institution, not a political institution or government. The *Wali Nanggroe Institute* is an indigenous leadership led by a *Wali Nanggroe* personally and independently as a unifying society, authoritative and competent in fostering, supervising the life of customary institutions, and granting degree/degree and other traditional ceremonies; (b) The current Aceh *Adat Council Secretariat* is an *Adat Institute*, as a partner of the Acehnese, Regency/City government and the House of Representatives of Aceh and the Regency/Municipal People's Representative Council. The Secretariat is an institution of Regional Government and the organization is governed the Aceh Qanun; (c) The *Ulama Consultative Assembly* shall be independent and domiciled as a partner of the Government of Aceh and districts and the House of Representatives of Aceh together with the City People's Legislative Assembly, to determine the decree as one of the considerations of regional government policy in the field of governance, development, community and economic development; (d) *Baitul Mal Aceh* and districts/municipalities are responsible for managing *zakat*, *waqf* property, and religious property as a subtracting factor against the amount of income tax payable from taxpayers. The Government of Aceh is authorized to stipulate the requirements of bank and non-bank financial institutions in lending in Aceh as long as they do not conflict with legislation.⁹⁸

That is, all these institutions have accommodated the history of the constitutional law of the second model of the source of local wisdom law since the reign of Aceh during the sultanate was familiar with the law or codification. The assertion, it has been acknowledged that the existence of Acehnese society is articulated in a modern perspective within a democratic and accountable state.

6.3. Authority between Government and Government

Aceh is the province of a special legal community unit and is given special authority to regulate and manage its own governmental affairs as well as the interests of local people according to the laws and regulations in the system and the principle of the Unitary State of

the Republic of Indonesia based on the 1945 Constitution of the Republic of Indonesia, led by a Governor carrying out government affairs and implemented The Government of Aceh and the House of Representatives of Aceh in accordance with their respective functions and authorities. The central government hereinafter called the Government, the President of the Republic of Indonesia holds the power of state government. Government affairs are entirely the authority of the Government and shared with the Government of Aceh.

The central authorities make norms, standards, procedures, supervision, facilitation and governmental affairs with national externalities. Government affairs are national in nature government functions which are the rights and obligations of government organized by departments/non-departmental government agencies to organize and manage such functions to protect, serve, empower and prospering society. While the national policy is a set of rules in the form of norms, standards, and procedures established by the Government as guidelines for the implementation of government affairs.

Criteria for the division of government authority that is nationally based on the criteria of externalities, accountability, and efficiency. The criterion of externalities is based on the idea that the level of government in charge of a governmental affair is determined by the extent of the impacts caused by the administration of such governmental affairs. In this provision, the externalities in question are those affecting across provinces and nationalities, then the matter becomes the authority of the Government. To prevent overlapping of claims or claims for such impacts, accountability criteria determined that the level of government closest to the impact arising is the most authorized to administer such governmental affairs. In this provision, the accountability in question is that if the impact of the administration of government affairs is experienced more than one province and /or national then the Government shall be responsible for organizing and managing the government affairs concerned. This is in line with the principle of democracy, namely to encourage the Government's accountability to the people.⁹⁹ The authority of the central government is Foreign Relations, Outside Defense, National Security,

Monetary and Fiscal, Judicial Power and Religious Freedom,¹⁰⁰ where the policy is the authority of the Government of the Republic of Indonesia in accordance with the Constitution.¹⁰¹

7. CONCLUSION

Based on the above discussion, it can be concluded: *First*, it turns out the content of the regional autonomy policy in special autonomy through the written law source Law Number 11 the Year 2006 concerning the current Aceh administration has accommodated the elements of the content of the written law source of Adat Meukuta Alam, Sarakata. In addition, the source of the unwritten law is Tradition. It is accommodated in the form of knowledge of the values of norms that have the ability of creation, innovation of the existence of the institution and the identity of the local community itself. That is, according to the mandate of the 1945 Constitution even though the Government gives the widest possible autonomy to the region, the Aceh government remains the subordination of the Government within the Unitary State of the Republic of Indonesia. *Second*, positioning local government as an instrument of local level political education in aggregating will contribute to the national political education as a basic element in creating unity and unity of nation and state and accelerate the realization of civil society or civil society. Hinted to local governments to improve the welfare of local communities through the provision of effective, efficient and economic public services. It takes time to seek a balance between the interests of the state and autonomy, especially some cycles of arrangement and negotiation as well as experiences and beliefs among the nation's children.

ENDNOTES

- ¹ M. Junius Melalatoa, *Understanding Aceh a Cultural Perspective*, (IKJ Press 2005), p. 12.
- ² Zulfan, *Politic of Law: Reconstruction of Sources of Law on Local Wisdom of Special Autonomy in Aceh Province*, (2018), International Conference on Law Economics and Health 16
- ³ Ibrahim Alfian, *Aceh's Face in the Historical Path*, (Gadjah

Mada University Press 2005), p. 223.

- ⁴ Zulfan, *op.cit.*
- ⁵ H.C.Zentgraff, *Atjeh*, (Beuna 1983), p.2.
- ⁶ Anthony Reid, Translator, Masri Maris, *The Origin of Aceh Conflict: From the Seize of the East Coast of Sumatra to the End of the 19th Century Aceh Kingdom* (Yayasan Obor Indonesia 2005), p.88.
- ⁷ K.F.H. van Langen, *De Inrichting van het Atjehsche Staatsbestuur onder het Sultanate*; in (Bijdragen tot de Taal, Land-en Volkenkunde van Ned, Indie 5, Volume III, s' Gravenhage, 1888), Aboe Bakar's translation, *Composition of Aceh Sultanate Government*, Year IX Number 1, (Center for Documentation and Information Aceh 1986), p. 76-96.
- ⁸ Muhammad Zainuddin, *Tarikh Aceh and Nusantara*, (Pustaka Iskandar Muda 1961), p. 340-309.
- ⁹ van Langen, *op.cit.*, p.88.
- ¹⁰ Ismail Suny, (ed), *Rampai on Aceh*, (Bhatara Karya Aksara 1985), p. 131.
- ¹¹ Zulfan, *op.cit.*
- ¹² Memorandum of Understanding Memorandum of Understanding (MoU) Helsinki August 15, 2005, p.408.
- ¹³ The Republic of Indonesia, *Law on Governing Aceh*, 2006
- ¹⁴ Indonesia, the 1945 Constitution, Paragraphs (1) and (2), Second Amendment.
- ¹⁵ The Republic of Indonesia, *Law Number 11 the Year 2006 regarding Aceh Government*.
- ¹⁶ van Langen, *op.cit.*, p.56-67.
- ¹⁷ Zainuddin, *op.cit.*, P. 340-309
- ¹⁸ The Republic of Indonesia, *Law on Governing Aceh*, 2006, *loc.cit*
- ¹⁹ Qanun Province of Aceh Number 5 Year 2003 About Gampong Government
- ²⁰ Qanun of Aceh Darussalam Province Number 4 of 2003 on the Government of Mukim
- ²¹ Qanun Aceh Province Number 3 the Year 2003 About the structure, position and authority of the District Administration
- ²² Qanun Province of Aceh Number 2 the Year 2003 on the Structure, Position, and Authority of Regency or City
- ²³ John Locke, *An Essay Concerning the True Original, Extent, and End Civil Government*, translation, A. Widyamartaya, *The Power of the People: Essays Knowing the Origin of Truth, Scope, and Purpose of Civil Gov-*

- ernment (Kanisius 2002), p.24.
- ²⁴ RM. A. B. Kusuma, Government Founder System of Government versus Presidency of Reform Order System (Faculty of Law University of Indonesia 2011), p.xvi.
- ²⁵ Cornelius F. Murphy, JR, Theories of World Governance: A Study in the History of Ideas (The Catholic University of America Press 1999), p.31
- ²⁶ Charles Louis de Secondat at La Brede Montesquieu, The Spirit of Law, (California: University of California, 1977), translation, M. Khoiril Anam, Dasa-Basic of Law and Political Science, cet.1, (Bandung: Nusamedia, 2007), p.192.
- ²⁷ Arthur Maas, (ed), Area and Power: A Theory of Local Government, (Glencoe Illinois: The Free Press, 1959), p.87.
- ²⁸ Hans Kelsen, Raisul Muttaqien's translation, General Theory of Law and State, (Russel and Russell, 1971), (Nusamedia 2006), p.382-383.
- ²⁹ *Ibid.*, p. 445-446.
- ³⁰ *Ibid.*, p. 446.
- ³¹ Murphy JR, *op.cit.*
- ³² Winkfield F. Twyman Jr, Losing Face But Gaining Power: State Taxation of Interstate Commerce, Virginia Tax Review Winter, (Virginia Tax Review Association 1997), p.19.
- ³³ Jorge A. Schiavone, The Central-Local Division of Power in The Americas and Renewed Mexican Federalism: Old Institutions, New Political Realities, International Journal of Constitutional Law 8
- ³⁴ John Rawls, A Theory of Justice, translator Uzair Fauzan and Heru Prasetyo, Theory of Justice Fundamentals of Political Philosophy to Achieve Social Welfare in the State, (Pustaka Pelajar 2006), p.6.
- ³⁵ Zulfan, *op.cit.*
- ³⁶ Montesquieu, *op.cit.*, p.5.
- ³⁷ Zulfan, *op.cit.*
- ³⁸ G.W.J. Drewes and P. Voorhoeve, Adat Aceh, Verhandelingen van Het Koninklijk Instituut Voor Taal, Land en Volkenkunde, Reproduced in Facsimile from a manuscript in the Indian Office Library March 21, 1919, Dell XXIV, ('s-Gravenhage: Martinus Nijhoff, 1958), p.28.
- ³⁹ Ibrahim Alfian, Reflection on the National Disaster of Aceh Earthquake-Tsunami December 26, 2006, (Dies Natalis Universitas Syiah Kuala 2005), p. 44.
- ⁴⁰ Ali Hasjmy, Puteri Pahang in Hikayat Malem Dagang: Armada Cakra Donya Mara to Malaka, in Seulawah Antologi Sastra Aceh, (Nusantara Foundation 1995), p. 538-539.
- ⁴¹ Francis Fukuyama, State Building: Governance and World Order in the Twenty-First Century, (Cornell Universty Press, 2005), p. xiv-xv.
- ⁴² Melalatoa, *op.cit.*, p. 65-66.
- ⁴³ Iskandar, De Hikajat Atjeh, S-Gravenhage: N.V. De Nederlansche Boek-en Steendrukkerij V.H.H.L. Smits, 1959, Aboe Bakar's translation, Hikayat Aceh Acts of Heroism of Young Iskandar 1986, p. 19.
- ⁴⁴ Raden Hoesein Djajadiningrat, *Critisch Overzicht van de in Maleische Werken Vervatte Gegevens Over de Geschiedenis van het Soeltanaat van Atjeh* (1908), translation Teuku Hamid, Sultanate of Aceh, (Banda Aceh: Department of Education and Culture Aceh Museum Development Project, 1982-1983), p.82.
- ⁴⁵ Aboe Bakar, Dictionary of Aceh Indonesia (Center for the Development and Language Development of the Ministry of Education and Culture 1985), p.5-298.
- ⁴⁶ Bakar, The Composition of Aceh Governance....., *op.cit.*, p.2.
- ⁴⁷ Burn, Dictionary of Aceh..... *op.cit.*, p.5.
- ⁴⁸ Hurgronje, *op.cit.*, p.7.
- ⁴⁹ Zainuddin, *op.cit.*, p.334
- ⁵⁰ van Langen, *op.cit.*, p. 11.
- ⁵¹ Takeshi Ito, The world of the Adat of Aceh. A historical study of the Sultanate of Aceh, Thesis Ph.D., (A.N.U 1984), p.l.61.
- ⁵² Anabel Teh Gallop, Gold, Silver and Lapis Lazuli: The Royal Letters Form Aceh in the 17TH Century, (The British Library UK 1998), p.18.
- ⁵³ van Langen, *op.cit.*, p. 67-85.
- ⁵⁴ A. Verheul, De Meunasah in Pase, in T.B.G, vol.L.XVII, Aboe burning translation, Meunasah Pase, Banda Aceh: Aceh Documentation and Information Center, 1927, p.381.
- ⁵⁵ Ibrahim Alfian, Teuku Ibrahim et al., History of Aceh Province Special Region, Research and Recording of the Special Region of Aceh, 1977-1978, p.99.
- ⁵⁶ van Langen, *op.cit.*, p.67.
- ⁵⁷ Snouck Hurgronje, De Atjehers, Volume II, (Leiden, 1893), Sutan Maimoen Translation, Aceh, People and Its Customs (INIS, 1997), p.46.

- ⁵⁸ Indonesia, the 1945 Constitution of the Republic of Indonesia
- ⁵⁹ Republic of Indonesia, Law on Governing Aceh, *loc.cit.*
- ⁶⁰ Hamid, Ahmad Farhan, Jalan Damai Nanggroe Endatu: Notes of the Aceh People's Representative, cet. 1, Jakarta: Free Votes, 2006. p. 243.
- ⁶¹ *Ibid.*
- ⁶² Bagir Manan, Facing the Day of Autonomy, (Center for Legal Studies Faculty of Law University of Indonesia Islam 2001), p. 3.
- ⁶³ D. Juliantara, Gregorius Sahdan, and Willy R Tjandra, Decentralized Democratic Idea and Praxis, (Pondok Edukasi, 2006), p. 51-55.
- ⁶⁴ The Republic of Indonesia, Law on Governing Aceh, *loc.cit.*, General Provisions.
- ⁶⁵ Guide of Team for Socialization of Training of Trainers Material Socialization of Law Number 11 the Year 2006 About Aceh Government, (Jakarta, 10-12 August 2006), p. 6.
- ⁶⁶ Republic of Indonesia, Law on Aceh Government, *loc.cit.*, General Explanation.
- ⁶⁷ *Ibid.*
- ⁶⁸ General Explanation, Qanun of Aceh Province Number 2 the Year 2003 About Structure, Position and Authority of Regency or City within Nanggroe Aceh Darussalam Province
- ⁶⁹ Qanun Province of Aceh Number 2 the Year 2003 on the Structure, Position, and Authority of Regency or City.
- ⁷⁰ *Ibid.*, Article 1 paragraph (5).
- ⁷¹ *Ibid.*, Article 1 paragraph (6).
- ⁷² *Ibid.*, Article 1 paragraph (7).
- ⁷³ *Ibid.*, Article 1 paragraph (8).
- ⁷⁴ *Ibid.*, Article 1 paragraph (9).
- ⁷⁵ *Ibid.*, Article 1, paragraph (10).
- ⁷⁶ Qanun Province of Nanggroe Aceh Number 2 the Year 2003, *loc.cit.*
- ⁷⁷ General Explanation, Qanun of Aceh Province Number 3 the Year 2003 About the structure, position, and authority of the District Administration
- ⁷⁸ *Ibid.*
- ⁷⁹ Qanun Province of Aceh Number 4 the Year 2003, *loc.cit.*
- ⁸⁰ *Ibid.*
- ⁸¹ General Explanation, Qanun of Aceh Province Number 4 the Year 2003, *loc.cit.*
- ⁸² General Provisions, Article 1 paragraph (4), *Ibid.*
- ⁸³ Qanun Province of Aceh Number 4 the Year 2003, *loc.cit.*, Article 3.
- ⁸⁴ *Ibid.*
- ⁸⁵ General Explanation, Qanun of Aceh Province Number 5 the Year 2003, *loc.cit.*
- ⁸⁶ General Explanation, Article 2 Paragraph (2) Qanun of Aceh Province Number 3 the Year 2003, *loc.cit.*
- ⁸⁷ Qanun Province of Aceh Number 5 the Year 2003, *loc.cit.*
- ⁸⁸ *Ibid.*, General Explanation, Article 1 Number 7
- ⁸⁹ the Republic of Indonesia, Law Number 5 the Year 1979 About the successor of the term Desa Musyawarah Desa (LMD)
- ⁹⁰ The Republic of Indonesia, Law Number 22 the Year 1999 About the Village Representative Body
- ⁹¹ Qanun Province of Aceh Number 5 the Year 2003, *loc.cit.*
- ⁹² *Ibid.*, Article 1 Paragraph (8).
- ⁹³ *Ibid.*, Article 1 Paragraph (9).
- ⁹⁴ The Republic of Indonesia, Law on Governing Aceh, *loc.cit.*
- ⁹⁵ *Ibid.*, Article 205
- ⁹⁶ *Ibid.*, Article 209
- ⁹⁷ *Ibid.*, Article 207 paragraph (1).
- ⁹⁸ The Republic of Indonesia, Law on Governing Aceh, *loc.cit.*
- ⁹⁹ *Ibid.*
- ¹⁰⁰ See the Helsinki MoU Agreement, paragraph 1.1.2 a
- ¹⁰¹ Indonesia, the 1945 Constitution.

REFERENCES

- A. B. Kusuma, RM, Government Founder System of Government versus Presidency of Reform Order System, Faculty of Law University of Indonesia 2011.
- Alfian, Ibrahim, Aceh's Face in the Historical Path, Gadjah Mada University Press 2005.
- _____, Reflection on the National Disaster of Aceh Earthquake-Tsunami December 26, 2006, Dies Natalis Universitas Syiah Kuala 2005.
- _____, History of Aceh Province Special Region, Research and Recording of the Special Region of Aceh, 1977-1978.
- Bakar, Aboe, Dictionary of Aceh Indonesia, Center for the Development and Language Development of the Ministry of Education and Culture 1985.

- Djajadiningrat, Raden Hoesein, *Critisch Overzicht van de in Maleische Werken Vervatte Gegevens Over de Geschiedenis van het Soeltanaat van Atjeh* 1908, translation Teuku Hamid, Sultanate of Aceh, Banda Aceh: Department of Education and Culture Aceh Museum Development Project, 1982-1983.
- Drewes, G.W.J, and P. Voorhoeve, *Adat Aceh, Verhandelingen van Het Koninklijk Instituut Voor Taal, Land en Volkenkunde*, Reproduced in Facsimile from a manuscript in the Indian Office Library March 21, 1919, Dell XXIV, 's-Gravenhage: Martinus Nijhoff, 1958.
- Fukuyama, Francis, *State Building: Governance and World Order in the Twenty-First Century*, Cornell Universty Press, 2005.
- Gallop, Anabel The, *Gold, Silver and Lapis Lazuli: The Royal Letters Form Aceh in the 17TH Century*, The British Library UK 1998.
- Guide of Team for Socialization of Training of Trainers Material Socialization of Law Number 11 the Year 2006 About Aceh Government, Jakarta, 10-12 August 2006.
- General Explanation, Qanun of Aceh Province Number 2 the Year 2003 About Structure, Position and Authority of Regency or City within Nanggroe Aceh Darussalam Province
- Hasjmy, Ali, Puteri Pahang in Hikayat Malem Dagang: Armada Cakra Donya Mara to Malaka, in *Seulawah Antologi Sastra Aceh*, Nusantara Foundation 1995.
- Hamid, Ahmad Farhan, *Jalan Damai Nanggroe Endatu: Notes of the Aceh People's Representative*, Jakarta: Free Votes, 2006.
- Hurgronje, Snouck, *De Atjehers*, Volume II, (Leiden, 1893), Sutan Maimoen Translation, Aceh, *People and Its Customs* (INIS, 1997).
- Iskandar, *De Hikajat Atjeh*, S-Gravenhage: N.V. De Nederlansche Boek-en Steendrukkerij V.H.H.L. Smits, 1959, Aboe Bakar's translation, *Hikayat Aceh Acts of Heroism of Young Iskandar* 1986.
- Ito, Takeshi, *The world of the Adat of Aceh. A historical study of the Sultanate of Aceh*, Thesis Ph.D., A.N.U 1984.
- Juliantara, D, Gregorius Sahdan, and Willy R Tjandra, *Decentralized Democratic Idea and Praxis*, Pondok Edukasi, 2006.
- Kelsen, Hans, Raisul Muttaqien's translation, *General Theory of Law and State*, Russel and Russell, 1971, Nusamedia 2006.
- Locke, John, *An Essay Concerning the True Original, Extent, and End Civil Government*, translation, A. Widyamartaya, *The Power of the People: Essays Knowing the Origin of Truth, Scope, and Purpose of Civil Government*, Kanisius 2002.
- Maas, Arthur, (ed), *Area and Power: A Theory of Local Government*, Glencoe Illinois: The Free Press, 1959.
- Manan, Bagir, *Facing the Day of Autonomy*, Center for Legal Studies Faculty of Law University of Indonesia Islam 2001.
- Melalatoa, M. Junius, *Understanding Aceh a Cultural Perspective*, IKJ Press 2005.
- Montesquieu, Charles Louis de Secondat at La Brede, *The Spirit of Law*, (California: University of California, 1977), translation, M. Khoiril Anam, *Dasa-Basic of Law and Political Science*, cet.1, Bandung: Nusamedia, 2007.
- Murphy, Cornelius F, JR, *Theories of World Governance: A Study in the History of Ideas*, The Catholic University of America Press 1999.
- Rawls, John, *A Theory of Justice*, translator Uzair Fauzan and Heru Prasetyo, *Theory of Justice Fundamentals of Political Philosophy to Achieve Social Welfare in the State*, Pustaka Pelajar 2006.
- Reid, Anthony, Translator, Masri Maris, *The Origin of Aceh Conflict: From the Seize of the East Coast of Sumatra to the End of the 19th Century Aceh Kingdom*, Yayasan Obor Indonesia 2005.
- Suny, Ismail, (ed), *Rampai on Aceh*, Bhatara Karya Aksara 1985.
- Schiavone, Jorge A, *The Central-Local Division of Power in The Americas and Renewed Mexican Federalism: Old Institutions, New Political Realities*, *International Journal of Constitutional Law* 8.
- Twyman Jr, Winkfield F, *Losing Face But Gaining Power: State Taxation of Interstate Commerce*, *Virginia Tax Review Winter*, Virginia Tax Review Association 1997.
- van Langen, K.F.H., *De Inrichting van het Atjehsche Staatsbestuur onder het Sultanate*; in (Bijdragen tot de Taal, Land-en Volkenkunde van Ned, Indie 5, Volume III, s' Gravenhage, 1888), Aboe Bakar's translation, *Composition of Aceh Sultanate Government*, Year IX Number 1, Center for Documentation and Information Aceh 1986.
- Verheul, A, *De Meunasah in Pase*, in T.B.G, vol.L.XVII, Aboe

- burning translation, Meunasah Pase, Banda Aceh: Aceh Documentation and Information Center, 1927.
- Zainuddin, Muhammad, *Tarikh Aceh and Nusantara*, Pustaka Iskandar Muda 1961.
- Zentgraff, H.C, *Atjeh*, Beuna 1983.
- Zulfan, *Politic of Law: Reconstruction of Sources of Law on Local Wisdom of Special Autonomy in Aceh Province*, (2018), International Conference on Law Economics and Health 16.
- Indonesia, the 1945 Constitution.
- Indonesia, the 1945 Constitution, Paragraphs (1) and (2), Second Amendment.
- The Republic of Indonesia, Law Number 5 the Year 1979 About the successor of the term *Desa Musyawarah Desa* (LMD).
- The Republic of Indonesia, Law Number 11 the Year 2006 regarding Aceh Government.
- Memorandum of Understanding Memorandum of Understanding (MoU) Helsinki August 15, 2005.
- Qanun Province of Aceh Number 5 Year 2003 About Gampong Government.
- Qanun of Aceh Darussalam Province Number 4 of 2003 on the Government of Mukim.
- Qanun Aceh Province Number 3 the Year 2003 About the structure, position and authority of the District Administration.
- Qanun Province of Aceh Number 2 the Year 2003 on the Structure, Position, and Authority of Regency or City.