

Recruitment Authority For The Election Supervisory Committee In Aceh Post Constitutional Court Ruling Number 61 / PUU-Xv / 2017 And Number 66 / PUU-XV / 2017

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Abstract: The birth of Law No. 7 of 2017 concerning Elections has given rise to a new perception of the name of the election supervisory agency in Aceh Province. Mandate constitution No. 7 in 2017 requires that the name of the organizer of the Presidential and legislative elections were supervised by the Election Supervisory Committee Aceh, while in the constitution Law Number 11 Year 2006 on Governing Aceh (UUPA) voter oversight committee assigned to oversee general election the region and recruited by Aceh house of representatives (DPRA) /district people's council (DPRK) district people's council members. But in reality recruitment voter oversight committee Aceh have been carried out by the Election Supervisory Body Republic of Indonesia based UU No. 7 of 2017 which is equated with other provinces, this should be the authority of the Aceh House of Representatives (DPRA) / district people's council (DPRK) based on the law governing Aceh. If visits by constitution No. 7 2017 Election Supervisory Body Inspection Agency should recruit by Name election supervisory committee not voter oversight committee. This study aims to determine and analyze the recruitment authority of Aceh voter oversight committee Members after the Constitutional Court Decision Number 61 / PUU-XV / 2017 and Number 66 / PUU-XV / 2017 and to find out and explain whether the recruitment of Aceh voter oversight committee by the Indonesian Election Supervisory Board is in synchronize with the decision of the Court of Justice Constitution. The usefulness of research contributes to the development of science and the development of constitutional law, especially in matters relating to the recruitment authority of the Election Supervisory Committee in Aceh and contributes thoughts to the legislators as well as to the Election Organizer in the formation of clear and legally binding legal regulations. . This type of research is normative juridical with empirical juridical approach, meaning that the primary legal material is collected from the speakers through interviews as supporters of secondary legal material. The data analysis technique used in this study is qualitative juridical. The result of this research is that the Agency authorized to recruit Aceh voter oversight committee Members after the Constitutional Court Decision Number 61 / PUU-XV / 2017 and Number 66 / PUU-XV / 2017 is the Aceh House of Representatives (DPRA). Decision of the Constitutional Court returns the article revoked by Law Number 7 of 2017 concerning Elections. After the verdict constitutional court Constitution Aceh House of Representatives (DPRA) change Qanun namely Qanun No. 6 of 2018 on the Amendment of Aceh Qanun No. 6 of 2016 concerning General Election Organizer and Elections in Aceh to take back that voter oversight committee participate in supervising the elections, so that for the future, already referred to the Qanun Number 6 Year 2018 that voter oversight committee participated in overseeing the election and will be recruited again by the Aceh House of Representatives (DPRA). When the name voter oversight committee Aceh was used in the electoral law automatically adopted the law governing Aceh, when its name Aceh voter oversight committee was required to be chosen by the Aceh House of Representatives (DPRA). Recruitment of the Aceh voter oversight committee by the Indonesian Election Supervisory Body is not in synchronize with the ruling of the Constitutional Court. Recruitment of the Aceh voter oversight committee by the Indonesian Election Supervisory Body no longer has a legal basis, because the article in the Election Law has been canceled by the Constitutional Court. After the Constitutional Court ruling the legal protection said that the voter oversight committee was recruited by the Election Supervisory Body was already dead, because the article in the law had been canceled by the Constitutional Court and had been returned to the law governing Aceh which meant that the recruitment of Aceh voter oversight committee was carried out by the Aceh House of Representatives (DPRA). It is recommended to the House of Representatives republic Indonesia (DPR RI) that in making Law Number 7 of 2017 concerning General Elections, it must involve the House of Representatives, because based on Article 269 paragraph (3) of Law Number 11 Year 2006 concerning the Government of Aceh states that in the case of the planned amendments to this law governing Aceh is carried out by first consulting and obtaining consideration from the Aceh House of Representatives (DPRA). So that there is no interpretation in terms of who has the right to recruit voter oversight committee Aceh. And should the

House of Representatives Aceh must immediately change Qanun on the Implementation of Election and General Election after the Constitutional Court ruling that there should be a clear legal basis.

Keywords: Authority; Recruitment; Aceh voter oversight committee.

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FOREWORD

Election (Voting) is a means of implementing people's sovereignty which is carried out directly, publicly, freely, confidentially, honestly and fairly in the Unitary State of the Republic of Indonesia based on Principles and the 1945 Constitution of the Republic of Indonesia.¹ An honest and fair election is the hope of all parties, so a credible, professional, and good institutional integrity institution is needed. Therefore talking about elections in Indonesia is incomplete and almost impossible without talking about Election Oversight.²

¹ Article 1 point 1 of Act Number 15 of 2011 concerning Organizers of General Elections

² Perludem Research Team, Panwas effectiveness: Evaluation of Election Supervision 2004, USAID-Perludem Publisher, DRSP, Jakarta, 2006, p. 1-2

The holding of elections in Aceh is regulated in Law Number 11 Year 2006 concerning the Government of Aceh (UUPA). In Article 60 Paragraph (1) of the government of Aceh it is explained that the Aceh and Regency / City Election Supervisory Committee is formed by a national and *ad hoc* supervisory committee. (2) The formation of the Election Supervisory Committee as referred to in paragraph (1) shall take place after the promulgation of this Law. (3) The members of the Election Oversight Committee as referred to in paragraph (1) and paragraph (2), each of 5 (L five) people are proposed by the Aceh House of Representatives (DPRA) / district people's council (DPRK). (4) The working period of the Election Supervisory Committee ends 3 (three) months after the inauguration of the Governor / Deputy Governor, the regent / deputy regent, and the mayor / deputy mayor.³

However, since the enactment of Law Number 7 Year 2017 concerning Elections, the Aceh voter oversight committee is no longer *ad hoc in* nature, but has been permanent. Article 89 Paragraph (4) of the Election Law states that election oversight body, Provincial election oversight body and Regency election oversight body / City are permanent. Article 92 Paragraph (13) of the Election Law stipulates that the term of office for membership of election oversight body, Provincial election oversight body, Regency election oversight body/mayor election oversight body is for 5 (five) years and thereafter can be re-elected for only one term of office at the same level. Then Article 557 of Law Number 7 Year 2017 concerning the Election explains that:⁴

- (1) The Institution of Election Organizer in Aceh consists of:
 - a. The Aceh Provincial Election Independent Commission and the Regency / City Election Independent Commission constitute a hierarchical institutional unit with the general election commission; and
 - b. The Aceh Provincial Election Supervisory Committee and the Regency / City Election Supervisory Committee constitute a hierarchical institutional unit with the election oversight body.
- (2) The Institution of Election Administrators in Aceh as referred to in paragraph (1) shall base and adjust their arrangements based on this Law.

Article 61 paragraph (1) of law number 11 year 2006 concerning the government of Aceh explains the duties and authorities of the election supervisory committee:

- a. To supervise the implementation of the election of the Governor / Deputy Governor, the Regent / Deputy Regent and the Mayor / Deputy Mayor;
- b. Carry out other duties and authorities as stipulated in the legislation.

With the granting of the lawsuit against Law Number 7 of 2017, the recruitment authority should be in the Aceh house of representatives and after the issuance of the Constitutional Court's decision No. 61 / PUU-XV / 2017 and Number 66 / PUU / -XV / 2017, the contents of the decision, the implementation of the election Aceh is still the authority of the Aceh Independent Commission (KIP) of Aceh and the Aceh voter oversight committee.

The birth of Law No. 7 of 2017 concerning Elections has brought about a new perception of the Election Supervisory Agency in Aceh Province. The mandate of Law No. 7 of 2017 requires that the name of the organizer of the Presidential Election and the Legislative Election that oversees is the Aceh voter oversight Committee,

³ Article 60 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) of Law Number 11 Year 2006 concerning the Government of Aceh

⁴ Article 557 of Law Number 7 of 2017 concerning General Elections

While in the Aceh government law voter oversight committee be tasked with overseeing the regional head elections and recruited by the Aceh House of Representatives/member district people's council. But in reality the recruitment of members of the Aceh voter oversight committee has been carried out by the Indonesian Election Supervisory Body based on Law Number 7 of 2017 which is equated with other provinces, this should be the authority of the Aceh House of Representatives/ district people's council based on the Aceh government law. If seen based on Law No. 7 of 2017 election oversight body should recruit Supervisory Institutions with the name election supervisory committee not voter oversight committee. It is feared raises legal issues in the future related to the use of name voter oversight committee about who is entitled to recruit as well as related tasks and responsibilities in oversight in elections a right hand.

Based on the background description above, several interesting issues can be formulated for further investigation, namely: Who has the authority to recruit Aceh voter oversight committee Members after the Constitutional Court Decision Number 61 / PUU-XV / 2017 and Number 66 / PUU-XV / 2017? And has the Aceh voter oversight committee recruitment by the Indonesian Election Supervisory Body been synchronized with the Constitutional Court's decision?

This study uses method normative research, conducted with a view to obtaining secondary data obtained from textbooks, legislation, and also journals that no connection or relevance to the issues that will be discussed. This research is a research conducted with an empirical juridical approach, the intention is primary legal material collected from the speakers through interviews as supporters of secondary legal materials. The specification of this research is analytical descriptive. Where this study seeks to explain in detail, factual, systematic and accurate information about the facts, properties and relationships between the phenomena investigated.⁵

Descriptive in the sense that this research aims to describe or illustrate the recruitment authority of the Election Oversight Committee in Aceh. Analytical in the sense that the results obtained by analyzing the data that has been collected. In analyzing it, it is conducted by examining the basis of the institution authorized to recruit Election Supervisory Committees in Aceh after the decision of the Constitutional Court Number 61 / PUU-XV / 2017 and Number 66 / PUU-XV / 2017.

I. DISCUSSION

A. Recruitment Authority of Aceh Election Supervisory Committee Post Constitutional Court Ruling Number 61 / PUU-XV / 2017 and Number 66 / PUU-XV / 2017

In Article 1 number 2 Aceh Qanun Number 6 of 2018 concerning Amendment to Aceh Qanun Number 6 of 2016 concerning Election Organizers and Elections in Aceh explains that Aceh is a provincial region which is a special legal community unit and given special authority to regulate and administer own government affairs and the interests of the local community in accordance with the legislation in the system and principles of the Unitary Republic of Indonesia based on the 1945 Constitution of the Republic of Indonesia, which is headed by a Governor.

⁵ Moh. Nazir, *Research Methods*, Ghalia Indonesia, Jakarta, 2003, p. 54-55.

Article 1 number 21 of Law Number 11 Year 2006 concerning the Government of Aceh states that the Qanun is a statutory regulation similar to a Regional Regulation governing the administration of life and the life of the people in Aceh Province.

It is explained in Article 557 of Law No. 7 of 2017 concerning Elections that:⁶

(1) The Institution of Election Organizer in Aceh consists of:

a. The Aceh Provincial Election Independent Commission and the Regency / City Election Independent Commission constitute a hierarchical institutional unit with the general election commissions; and

b. The Aceh Provincial Election Supervisory Committee and the Regency / City Election Supervisory Committee constitute a hierarchical institutional unit with the election oversight body.

(2) The Institution of Election Administrators in Aceh as referred to in paragraph (1) shall base and adjust their arrangements based on this Law.

With the cancellation of Article 557 Paragraph (2) of Law Number 7 of 2017 concerning Elections by the Constitutional Court in its decision Number 61 / PUU-XV / 2017, the Institution of Election Organizer in Aceh should base and adjust its arrangements based on Law Number 11 of 2006 about the Government of Aceh. Then Article 571 of Law Number 7 of 2017 concerning Elections which states that "At the time this Act comes into force:

a. Law Number 42 of 2008 concerning Election of President and Vice President (State Gazette of the Republic of Indonesia Number 176 of 2008, Supplement to the State Gazette of the Republic of Indonesia Number 4924);

b. Law Number 15 of 2011 concerning Organizers of General Elections (State Gazette of the Republic of Indonesia of 2011 Number 101, Supplement to the State Gazette of the Republic of Indonesia Number 5246);

c. Law Number 8 of 2012 concerning General Elections of Members of the house of representatives, regional representatives council and regional people's representative assembly (State Gazette of the Republic of Indonesia Number 117 of 2012, Supplement to the State Gazette of the Republic of Indonesia Number 5316);

d. Article 57 and Article 60 paragraph (1), paragraph (2), and paragraph (4) of Law Number 11 of 2006 concerning the Government of Aceh (State Gazette of the Republic of Indonesia of 2006 Number 62, Supplement to the State Gazette of the Republic of Indonesia Number 4633),

Revoked and declared not applicable.

Then the Constitutional Court also canceled Article 571 letter d of Law Number 7 of 2017 concerning the Election in its decision Number 66 / PUU-XV / 2017, then Article 60 Paragraph (1), Paragraph (2), and Paragraph (4) of the Law Number 11 Year 2006 concerning the Government of Aceh still applies.

Where Article 60 of Law Number 11 Year 2006 concerning the Government of Aceh states that:

⁶ Article 557 of Law Number 7 of 2017 concerning General Elections

- 1) Aceh and district / city Election Supervisory Committees are formed by national-level and *ad hoc* supervisory committees.
- 2) The formation of the Election Supervisory Committee as referred to in paragraph (1) shall take place after the promulgation of this Law.
- 3) The members of the Election Oversight Committee as referred to in paragraph (1) and paragraph (2), each of 5 (five) people are proposed by the Aceh house of representatives/ district people's council.
- 4) The working period of the Election Supervisory Committee ends 3 (three) months after the inauguration of the Governor / Deputy Governor, the regent / deputy regent, and the mayor / deputy mayor.

Thus it is clear that the recruitment of Aceh voter oversight committee should be the authority of the Aceh House of Representatives. Then in Article 61 of Law Number 11 Year 2006 concerning the Government of Aceh explains that:

- 1) Duties and authority of the Election Supervisory Committee:
 - a. supervise the implementation of the election of the Governor/ Deputy Governor, the regent/ deputy regent, and the mayor/deputy mayor; and
 - b. Carry out other duties and authorities as stipulated in the legislation.
- 2) The implementation of the tasks referred to in paragraph (1) is in accordance with statutory regulations

Based on Article 61 paragraph (2) of Law Number 11 Year 2006 concerning the Aceh Government which provides legal loopholes to include the duties and authority of the Aceh voter oversight committee in addition to supervising the election of the Governor / Deputy Governor, the regent / deputy regent, and the mayor / deputy the mayor, also to supervise the implementation of the election of the People's Representative Council, the Regional Representative Council, the Aceh People's Representative Council, the Regency / City People's Representative Council and the President and Vice President. This was then regulated in Article 1 number 12 of the Aceh Qanun Number 6 of 2018 concerning Amendments to the Aceh Qanun Number 6 of 2016 concerning Organizers of Elections and Elections in Aceh, which states that:

"General Election, herein after referred to as Election, is a means of popular sovereignty to elect house of representatives members, regional representative council members, the President and Vice President, and to elect Aceh House of Representatives members and district people's council members, which are carried out directly, publicly, freely, confidentially, honestly, and fairly in the State. The Unity of the Republic of Indonesia based on Principles and the 1945 Constitution of the Republic of Indonesia. "

After the existence of Aceh Qanun Number 6 of 2018 concerning Amendments to Aceh Qanun Number 6 of 2016 concerning Organizers of General Elections and Elections in Aceh, the Aceh voter oversight committee stipulated that the Aceh voter oversight committee in addition to supervising elections also oversees elections in Aceh and recruitment is carried out by the Aceh House of Representatives. In the preamble considering the letter d in the Aceh Qanun Number 6 of 2018 explained that in the process of forming the

independent election commission and voter oversight committee as the organizer of the General Elections in Aceh as stipulated in Article 56 and Article 60 of Law Number 11 Year 2006 concerning the Government of Aceh, in several different cases with the establishment of the Provincial Election Commission and Regency / City Election Commission and Election Supervisory Committee (voter oversight committee) in other regions (in Indonesia).

Article 1 number 24 Aceh Qanun Number 6 of 2018 concerning Amendment to Aceh Qanun Number 6 of 2016 concerning Election Organizers and Elections in Aceh states that the Aceh voter oversight committee is an Election and Election Supervisory institution established by election oversight body based on the Aceh House of Representatives proposal and constitutes a hierarchical unit with election oversight body Republic of Indonesia.

Article 36 Aceh Qanun Number 6 Year 2018 concerning Amendment to Aceh Qanun Number 6 Year 2016 concerning Organizers of General Elections and Elections in Aceh states that:

- (1) Election and Election Supervisors in Aceh are carried out by Aceh voter oversight committee, Regency / City voter oversight committee, district voter supervisory committee, field supervisory committee or other names and voting place Supervisors.
- (2) The term of office of Aceh voter oversight committee and voter oversight committee Regency / City is 5 (five) years from the oath / promise of office.
 - (2a) Sub-district voter oversight committee, field supervisory committee or other names and voting place Supervisors as referred to in paragraph (1) are *ad hoc in nature*.
- (3) Aceh voter oversight committee, Regency / City voter oversight committee, shall be formed no later than 3 (three) months before the first stage of holding an election and / or Election begins.
 - (3a) Sub-district voter oversight committee and field supervisory committee or other names as referred to in paragraph (1), are formed no later than 1 (one) month before the first stage of holding an Election and / or Election begins and ends no later than 3 (three) months after all stages of the holding of Elections and / or Selection is complete.
- (4) The voting place Supervisor as referred to in paragraph (1), is formed 23 (twenty three) days before the Election and / or Election voting day and is dissolved 7 (seven) days after the voting is complete.

Furthermore, Article 40 of the Aceh Qanun Number 6 of 2018 concerning Changes to the Aceh Qanun Number 6 of 2016 concerning Organizers of General Elections and Elections in Aceh states that:

- (1) Aceh Supervisory Committee is tasked with:
 - a. Oversee all stages of the holding of Elections and Elections of Governors and Deputy Governors in Aceh;
 - b. Receive reports of alleged violations of the implementation of laws and regulations concerning the Election and Election of the Governor and Deputy Governor;
 - c. Resolving findings and / or reports on disputes over the election and election of governors and deputy governors which do not contain criminal elements;
 - d. Submitting findings and / or reports to Aceh general election commissions for follow up;
 - e. Forward findings and / or reports that are not their authority to the competent authority;
 - f. Forwarding findings and / or reports of violations containing criminal acts in the Election and Election of the Governor and Deputy Governor to the Police Investigator;
 - g. Submitting reports to election oversight body as a basis for issuing election oversight body recommendations relating to alleged actions that have resulted in disruption to the stages of the Election of the Governor and Deputy Governor in Aceh;
 - h. Oversee the implementation of the follow-up of election oversight body's recommendations on the imposition of sanctions on Aceh independent election commissions members, which are proven to have taken actions that have resulted in disruption of the stages of the Election and Election of Governors and Deputy Governors;
 - i. Oversee the implementation of the socialization of the election and election of the Governor and Deputy Governor;
 - j. Provide recommendations to the general election commission to temporarily disable and / or impose administrative sanctions for violations as referred to in letter f; and
 - k. Carry out other tasks of election oversight body and / or as stipulated in the legislation.

Article 63 of the Aceh Governance law states that:

"Matters not yet regulated in this Law concerning the supervision of the election of the Governor / Deputy Governor, the regent / deputy regent, and the mayor / deputy mayor are guided by the provisions of the legislation."

This means that things that have not been regulated in the Aceh governance law regarding supervision of the election of the Governor / Deputy Governor, the regent / deputy regent, and the mayor / deputy mayor are guided by the provisions of the statutory regulations namely Law Number 7 of 2017 concerning Elections and the Aceh Qanun Number 6 of 2016 concerning Organizers of General Elections and Elections in Aceh.

According to TgkMuharuddinS.Sos, the authority of voter oversight committee's reconciliation was in the Commission 1 (one) Aceh House of Representatives, the same was true for the recruitment of Aceh independent election commission members. The authority to recruit Aceh voter oversight committee becomes the authority of the Aceh House of Representatives based on the Aceh Governance law and is strengthened by the decision of the Constitutional Court. The Aceh voter oversight committee was recruited by the Aceh House of Representatives, then SK was issued by the Indonesian Election Supervisory Body and inaugurated by the Governor of Aceh. Likewise with voter oversight committee district / city recruited by the district people's council each district / city, and in decree (SK) right by election oversight body Republic of Indonesia before sworn by the Regent / Mayor. The Indonesian Election Supervisory Body does not heed the, they equate the Aceh province with other provinces that the recruitment is under the authority of the Central election oversight body. Aceh House of Representatives continues to recruit members of the Aceh voter oversight committee with reference to the Aceh governance law.⁷

According to Faizah as the Chairperson of the Aceh voter oversight committee, there will be a dualism of the election supervisory institution again in Aceh except for example if there is communication or agreement between the Aceh House of Representatives and

⁷ serambinews.com with the title DPRA Reject Aceh voter oversight committee, <https://aceh.tribunnews.com/2018/05/03/Aceh> House of Representatives-reject-voter oversight committee-Aceh, accessed on Saturday 20 July 2019, at 15.00 WIB

The Indonesian Election Supervisory Body, then there may only be 1 (one) voter oversight committee institution later. In 2017 yesterday, the Regency / City was still *ad hoc*, so only in the provinces were dualism, if for example later in the next election there would still be 2 (two) institutions which were very inefficient. Related to the existence of Qanun Number 6 Year 2018, Qanun / Regional Regulation whose position is under the law. How could the Qanun, which is derived from the Aceh governance law was made norm.

In Aceh governance law, voter oversight committee only oversees the elections, it is not stated to oversee legislative and presidential elections. Recruitment of Aceh voter oversight committee members refers to Law Number 7 of 2017 concerning Elections. Member voter oversight committee is only authorized to supervise legislative elections and presidential elections. While the recruitment of Aceh voter oversight committee members by the Aceh House of Representatives is only authorized to oversee the implementation of the regional head election in Aceh as stipulated in Article 60 of the Aceh governance law. No authority (voter oversight committee version Aceh House of Representatives) legislative elections oversee presidential election, why election oversight body still recruiting voter oversight committee. It's just that the supervisory institution recruited by election oversight body with the Aceh House of Representatives has the same name voter oversight committee. But it has a different authority in conducting oversight, one has the authority to oversee the elections and another has the authority to oversee the General Elections and Presidential Elections.⁸

Aceh voter oversight committee member NyakAriefFadhillahSyah also stated that there would later be dualism of the election supervisory institutions again in Aceh. There is no sentence in the Aceh governance law that the Aceh voter oversight committee has the authority to oversee the legislative and presidential elections, the Aceh voter oversight committee only oversees the elections. Voter oversight committee Aceh's recruitment is based on Law Number 7 of 2017 concerning Elections which only has the authority to oversee elections. Meanwhile the Aceh voter oversight committee, recruited by the Aceh House of Representatives authority to oversee the Aceh elections in accordance with the Aceh Governance law. So that the Aceh voter oversight committee is currently being recruited by the Indonesian Election Supervisory Body.⁹

However, Azhari who is the Chair of Commission 1 (one) of the Aceh House of Representatives stated that the Aceh voter oversight committee was supervising the regional head elections while the Aceh election oversight body oversaw the Election, so yesterday the Aceh House of Representatives recruited members of the Aceh voter oversight committee to oversee the 2017 regional head election which was *ad hoc*. Then approaching the election, the Indonesian Election Supervisory Body turns out to equate Aceh with other regions Indonesia, that election authority is the authority of the central government so that they recruit Aceh voter oversight committee to oversee elections in Aceh. No more duality electoral institutions in Aceh, already in the mash, as in Act No. 7 of 2017 concerning the election was not no such thing election oversight body to Aceh, but already mentioned Aceh voter oversight committee. So when the name is "Aceh voter oversight committee" then in the Aceh governance law it is the authority of the Aceh House of Representatives to recruit the institution. We are

mandated by the Aceh governance law and the Election law, which will respond to the law has been prepared by a legal protection that governs technically in Qanun Number 6 of 2018. DPR(Aceh House of Representatives) will recruit Aceh voter oversight committee ahead of the General Election later in 2022 to oversee the General Election and will continue. The Aceh voter oversight committee that was recruited by election oversight body no longer exists, when the term of office has expired then it will be directly connected by the Aceh voter oversight committee chosen by the Aceh House of Representatives. It is not possible in one region to have two voter oversight committee, namely the regional head elections and Election voter oversight committee. Previously it could be because there used to be two institutions namely Aceh election oversight committee and Aceh voter oversight committee. While Aceh voter oversight committee used in election law.

⁸ Faizah, Chairperson of the Aceh voter oversight committee, interview, 18 July 2019

⁹ NyakAriefFadhillahSyah, Member of the Aceh voter oversight committee, interview, 18 July 2019

Automatically adopted the Aceh governance law, when its name Aceh voter oversight committee was required to be chosen by the Aceh House of Representatives. With regard to the current problem that the Aceh voter oversight committee was recruited by the Indonesian Election Supervisory Body, we still follow the existing mechanism that they are part of the election supervisors in Aceh and we are still invited to events related to electoral, both independent election commissions and Aceh voter oversight committee.

Because they are legally valid, and at that time we also have not formed voter oversight committee which is our authority that we will enforce in 2022. Yesterday the legal protection was also not ready, so they are now legitimate as the Aceh voter oversight committee overseeing the General Election and also KIP as the electoral organizer.¹⁰

Member of the Commission 1 Aceh House of Representatives Djasmi Has also found around Aceh House of Representatives recruit voter oversight committee Aceh in accordance with the mandate of the Aceh governance law, because it refers to the Aceh governance law Article 60 paragraph (3), the recruitment of the provincial legislature voter oversight committee it is not election oversight body of Indonesia. This means Aceh is no longer in Aceh, it remains only the committee for the supervision of Aceh voters recruited by Aceh House of Representatives according Aceh governance law. The Aceh House of Representatives has coordinated with the Chair of the Republic of Indonesia Election Supervisory Body and the Secretary General of the Indonesian Election Supervisory Body. House of representatives questioned the basis for election oversight body to recruit voter oversight committee Aceh commissioners. The Chairperson of the Indonesian Election Supervisory Body said that if the results of their recruitment were only for the legislative elections and presidential election, while for the Election voter oversight committee would still be recruited in accordance with the Aceh governance law. This means that in the future there will still be two voter oversight committee in Aceh. Whereas the Aceh House of Representatives hopes that there will be no voter oversight committee dualism in Aceh, and that is the mandate of the Aceh Governance Law. Previously, Parliament A also accused the Indonesian Election Supervisory Body for straddling the Constitutional Court's (MK) ruling regarding the recruitment of voter oversight committee in Aceh. Then there is no longer the dualism of supervisory institutions both in elections and in the elections. Article 557 paragraph (1) of Law Number 7 of 2017 concerning elections states that the election organizers in the provinces of Aceh independent election commission and voter oversight committee.¹¹

Then Tharmizi who is a Member of the 2017 Aceh regional head elections and voter oversight committee states that in Article 60 of the Aceh governance law it is still supervised by the Aceh voter oversight committee, so that Aceh governance law is a *lexspecialis*, then in Law Number 15 of 2011 it is regulated that the permanent election oversight body is only in the province, whereas the constitution, Law No. 7 of 2017 concerning permanent elections to the Regency / City and this law also stipulates that the Aceh voter oversight committee also oversees the election, in other provinces the Election Supervisory Body also includes oversight of the elections. In Law Number 7 of 2017 concerning Elections there is an article about Aceh voter oversight committee no longer election oversight body for Aceh. Whereas for other areas the name is election oversight body, specifically in Aceh the name voter oversight committee, with the hope that this can be put together like the general election commission and independent election commission used to be. It used to be the general election commissions but when it came out the Aceh governance law became independent election commissions. It is expected that this is also the case, because in then Aceh governance lame the name voter oversight committee is expected to be 1 (one) institution as well, there is no longer a election oversight body in Aceh. And there will be a dualism of the election supervisory institution again later. Because the Aceh governance law is already intact again. Election will be called election committee. In Aceh governance law, voter oversight committee is still *ad hoc*, Aceh House of Representative must revise Aceh governance law. Law No. 7 of 2017 concerning Elections states that the Aceh voter oversight committee institution is recruited by the Indonesian Election Supervisory Body, whereas in UUPA (Aceh governance law) and Qanun it is recruited by the Aceh House of Representatives. It is true that the election was recruited by the Indonesian Election

Supervisory Body, because not a single sentence of the election was mentioned in the Aceh governance law which stated that election supervisors were recruited by the Aceh House of Representatives. If other tasks are not election, unless there is a delegation from the Indonesian Election Supervisory Body to the Aceh House of Representatives. If the Aceh house of Representatives chooses the permanent Aceh voter oversight committee institution as in Law Number 7 of 2017 on Elections, then the Aceh House of Representatives must give up if the Aceh voter oversight committee is recruited by election oversight body, because in the Aceh voter oversight committee UUPA still *ad hoc*. But if it has to be in accordance with the Aceh governance law, the Aceh voter oversight committee will still be recruited by the Aceh House of representatives and will still be *ad hoc*. Aceh House of Representatives continues to follow Law No. 7 of 2017 concerning Elections releasing voter oversight committee for the center. The source of the Regional Election is the Regional Budget, while the General Election is the National Budget. If you follow Law Number 7 of 2017 concerning Elections, it will be sourced from the State Budget, but if it is in accordance with the Aceh governance law, it will still be sourced from the regional expenditure budget. The solution is that there must be sincerity from the House of Representatives so that Law Number 7 of 2017 concerning Elections and Aceh Qanun Number 6 of 2018 concerning Amendments to Aceh Qanun Number 6 of 2016 concerning Organizers of Elections and Elections in Aceh is useful, namely recruitment from independent institutions (formed by the Aceh House of Representatives itself but not the Aceh house of representatives) and then included in the Aceh house of representatives. But if recruiting from the Indonesian Election Supervisory Body, they form an independent institution under the Indonesian Election Supervisory Body. Finally, only the Indonesian Election Supervisory Body. By taking 15 of them then given to the Aceh House of Representatives and Aceh House of Representatives choosing 5, or Aceh house of representatives who recruited 15 people, then election oversight body chose 5. Then one of them must be sincere and must agree. If no one withdraws, there will still be 2 institutions.¹²

B. Synchronization of Constitutional Court Decisions with the Recruitment of the Aceh voter oversight committee by the Indonesian Election Supervisory Body

By granting the lawsuit against Law No. 7 in 2017 that, after that there should be recruitment authority of the provincial legislature, and after the release of a Constitutional Court decision No. 61 / PUU-XV / 2017 and No. 66 / PUU / -XV / 2017 content of the decision, implementation Aceh's elections are still the authority of the Aceh Independent Commission (KIP) of Aceh and the Aceh voter oversight committee. Supposedly Aceh voter oversight committee recruited by councilors, later on validated by election oversight body Republic of Indonesia and then appointed by the Governor. Likewise for voter oversight committee District / City decree (SK) recruited by the district people's council on the right by election oversight body Republic of Indonesia and then inducted by the regent or mayor in Aceh.

With the cancellation of Article 557 Paragraph (2) of Law Number 7 of 2017 concerning Elections by the Constitutional Court in its decision Number 61 / PUU-XV / 2017, the Institution of Election Organizer in Aceh should base and adjust its arrangements based on Law Number 11 of 2006 about the Government of Aceh.

Then the Constitutional Court also canceled Article 571 letter d of Law Number 7 of 2017 concerning the Election in its decision Number 66 / PUU-XV / 2017, then Article 60 Paragraph (1), Paragraph (2), and Paragraph (4) of the article Law Number 11 Year 2006 concerning the Government of Aceh still applies. Where Article law 60 of Law Number 11 Year 2006 concerning The Government of Aceh states that:

(1) Aceh and district / city Election Supervisory Committees are formed by national-level and *ad hoc* supervisory committees.

¹²Tharmizi, member of Aceh voter oversight committee regional head election 2017 interview, 26 July 2019

(2) The formation of the Election Supervisory Committee as referred to in paragraph (1) shall take place after the promulgation of this Law.

(3) Members of the Election Oversight Committee as referred to in paragraph (1) and paragraph (2), each of 5 (five) people who are proposed by the Aceh House of Representatives / district people's council.

(4) The working period of the Election Supervisory Committee ends 3 (three) months after the inauguration of the Governor / Deputy Governor, the regent / deputy regent, and the mayor / deputy mayor.

Thus it is clear that the recruitment of Aceh voter oversight committee should be the authority of the Aceh House of Representatives.

After the decision of the Constitutional Court, the House of Representatives changed the Qanun for election organizers and the post-conflict local election into Aceh Qanun Number 6 of 2018 concerning Amendments to the Aceh Qanun Number 6 of 2016 concerning Organizers of Elections and Elections in Aceh, by taking over again that Aceh voter oversight committee participated in overseeing the election. So in the future, it has been referred to Qanun Number 6 of 2018 that voter oversight committee will supervise the election and will be

recruited again by the Aceh House of Representatives. After the Constitutional Court ruling, the legal umbrella that said that the Aceh House of Representatives was recruited by the Indonesian Election Supervisory Body was already dead, there was no legal umbrella to justify it, because the article in the law had been canceled by the Constitutional Court and had been returned to the Aceh governance law. It means that the Aceh voter oversight committee recruitment was carried out by the Aceh House of Representatives. There is no longer legal dualism. The Constitutional Court's decision period with the general election yesterday was too close, so we have not had time to prepare the Qanun at that time, because the Qanun is at the level of technical implementer. Aceh House of Representatives also did not recruit again at that time, in order to avoid overlapping institutions. Actually, if the Aceh House of Representatives recruited Aceh voter oversight committee at the time, then the Aceh voter oversight committee from the recruitment of the Indonesian Election Supervisory Body could be dissolved. Because they have no legal umbrella anymore, if they say there is a legal umbrella that covers them, then that is not true because the article in the Election Law has been canceled by the Constitutional Court. Therefore there is no more dualism.¹³

The Constitutional Court's decision for Aceh remains in accordance with the Aceh governance law, even if there is a plan to amend the Aceh governance law, it must go through the approval of the Aceh House of Representatives. And there will be a dualism of the election supervisory institution again later. Because the Aceh governance law is already intact again. Election will be called election committee. In UUPA Aceh voter oversight committee is still *ad hoc* Aceh House of Representatives must revise Aceh governance law. After the Constitutional Court's decision, regarding recommendations from the Aceh House of Representatives, the Aceh governance law was amended to have this agreement which was affirmed by the Constitutional Court. Election oversight body Republic of Indonesia does not dare to violate Law Number 7 of 2017 concerning Elections. Likewise the DPRA did not dare to violate Law Number 11 of 2006 concerning the Government of Aceh. Recruitment by the Indonesian Election Supervisory Body does not see the Constitutional Court's decision, they only see Law No. 7 of 2017 concerning Elections. Because the articles in the Aceh governance law have all been returned as before. Actually the naming of the Aceh voter oversight committee in Law Number 7 of 2017 concerning Elections intends to adjust to the Aceh governance law. In Aceh there are two institutions do elections again, look at the naming in the Aceh governance law is Aceh voter oversight committee

¹⁴Azhari, Chairperson commissions 1 Aceh House of Representatives, interview, 23 July 2019

There was made in Act No. 7 of 2017 on General Elections also named Aceh voter oversight committee without consultation with provincial legislature.¹⁴

II. CONCLUSION

The institution authorized to recruit Aceh voter oversight committee Members after the Constitutional Court Decision Number 61 / PUU-XV / 2017 and Number 66 / PUU-XV / 2017 is the Aceh House of Representatives (DPRA). Because on behalf of "Aceh voter oversight committee" it is the authority of the Aceh House of Representatives. Decision of the Constitutional Court returns the article revoked by Law Number 7 of 2017 concerning Elections. The Indonesian Election Supervisory Body equates Aceh with other regions in Indonesia, so what has happened is the Indonesian Election Supervisory Body recruits Aceh voter oversight committee to oversee elections in Aceh. After the decision of the Constitutional Court, the Aceh House of Representatives changed the Qanun namely Qanun Number 6 of 2018 concerning Amendments to the Aceh Qanun Number 6 of 2016 concerning Organizers of Elections and Elections in Aceh by taking over again that voter oversight committee participated in supervising the election, so that in the future it had referred to Qanun Number 6 In 2018 that voter oversight committee participated in overseeing the election and would be re-recruited by the Aceh House of Representatives. In Law Number 7 of 2017 concerning Election, there is no such thing as election oversight body for Aceh, there is only Aceh voter oversight committee, therefore when the name is Aceh voter oversight committee then in the Aceh governance law it is the Aceh House of Representative's authority to recruit the agency. Based on that there is a legal protection, Qanun Number 6 of 2018 is based on the Aceh governance law and the electoral law and should be guided by existing regulations.

Recruitment of the Aceh voter oversight committee by the Indonesian Election Supervisory Body is not in synchronize with the ruling of the Constitutional Court. Decision of the Constitutional Court has returned the article revoked by Law Number 7 of 2017 concerning General Elections. After the Constitutional Court's ruling, the legal protection that said that the Aceh voter oversight committee was recruited by the election oversight body had fallen, there was no legal umbrella to justify it, because the article in the law had been canceled by the Constitutional Court and had been returned to the Aceh governance law which meant the Aceh voter oversight committee recruitment was carried out by the Aceh House of Representatives. Then there is no more legal dualism. Recruitment of the Aceh voter oversight committee by election oversight body Republic of Indonesia

has no legal basis anymore, because the article in the Election Law has been canceled by the Constitutional Court.

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