

Legal Flaws in the Election of Wali Nanggroe 2018-2023 Period in Aceh

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Abstract

The problem of elections in public office is often interesting to study, especially with the development of the electoral system which is continually being renewed to prevent corruption, collusion and nepotism, as well as to get candidates who are capable in their fields. One of these public offices which is Aceh-specific is Wali Nanggroe. This institution is a mandate of Aceh Government Law Number 11 of 2006. The determination of the Wali Nanggroe for the 2018-2023 period raises legal problems. Therefore this study will examine the wali nanggroe candidate selection system, the mechanism for selecting wali nanggroe based on Qanun number 8 of 2012, and whether there is a legal flaw in the election of wali nanggroe for the 2018-2023 period. This study uses a normative legal research method with a Law and Conceptual approach. The results of the research show that the wali nanggroe candidate selection system has not been carried out openly and transparently, even though Qanun allows for other candidates, in terms of election mechanisms, according to Qanun, an Election Commission must be formed in which there are 4 elements, but in practice the Commission Elections were not formed, this would be legally problematic, even legally flawed because one of the elements of the Election Commission was not involved as a member of the Election Commission as regulated by the Qanun. The elements that were not involved were representatives of ulama in each district / city.

Keywords: Elections; Legal flaw; Wali Nanggroe;

Abstrak

Problematika pemilihan dalam jabatan publik, seringkali menarik untuk dikaji, apalagi dengan perkembangan sistem pemilihan yang terus dibaharukan untuk mencegah korupsi kolusi dan nepotisme, selain itu untuk mendapatkan calon yang capable di bidangnya. Salah satu jabatan publik tersebut yang sifatnya khusus Aceh adalah Wali Nanggroe. Lembaga ini merupakan amanah dari Undang-undang pemerintahan Aceh Nomor 11 Tahun 2006. Penetapan Wali Nanggroe periode 2018-2023 menimbulkan problema secara hukum. Oleh karena itu penelitian ini akan mengkaji sistem penjurangan calon wali nanggroe, mekanisme pemilihan wali nanggroe berdasarkan Qanun nomor 8 Tahun 2012, serta apakah terdapat cacat hukum dalam pemilihan wali nanggroe periode 2018-2023. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan Undang-undang dan Konseptual. Adapun hasil penelitian menunjukkan bahwa sistem penjurangan calon wali nanggroe belum dilakukan secara terbuka dan transparan, padahal Qanun Nomor 8 Tahun 2012 membolehkan adanya calon lain, dalam hal mekanisme pemilihan, menurut Qanun harus dibentuk Komisi Pemilihan yang didalamnya ada 4 unsur, akan tetapi dalam prakteknya Komisi Pemilihan tidak dibentuk, hal ini tentu akan bermasalah secara hukum, bahkan cacat hukum karena salah satu unsure dari Komisi Pemilihan tidak dilibatkan sebagai anggota Komisi Pemilihan sebagaimana yang diatur Qanun. Adapun unsur yang tidak dilibatkan adalah perwakilan ulama di setiap kabupaten/kota.

Kata Kunci: Cacat Hukum; Pemilihan; Wali Nanggroe;

INTRODUCTION

The history of the state administration in Indonesia, placing Aceh as a special region and having special autonomy rights in regulating governance, this specialization was agreed upon by the central government and Aceh as outlined in Law Number 11 of 2006 concerning Aceh Governance (UUPA).¹

The birth of the UUPA was inseparable from the Helsinki Memorandum of Understanding (MoU) between the Indonesian government and the Free Aceh Movement which was agreed on on August 15, 2005, this agreement is a reconciliation towards development in the social, economic and political fields. The desire to run a government independently, specifically and given privileges in making policies that are local in nature is an important point of the substance of the Helsinki MoU, even though there are certain powers that are still centralized, for example foreign relations, national defense, monetary and fiscal, judicial power and freedom. religious.²

In the UUPA, Aceh is stated as a provincial area which is a legal community unit that is special and given special authority to regulate and manage government affairs and the interests of the local community in accordance with the laws and regulations in the system and principles of the Unitary State of the Republic of Indonesia based on the Constitution. The Republic of Indonesia in 1945, led by a Governor.³

Privileges and specificities possessed by the province of Aceh based on this law, among others; local parties, the Syar'iyah Court, Mukim, the Wali Nanggroe institution. The Wali Naggroe Institute is a traditional leadership institution that unites society and preserves indigenous and cultural life. This institution is also authorized to develop and supervise the implementation of the life of customary institutions, customs and the granting of titles and other traditional ceremonies.⁴

The existence of the Wali Nanggroe Institution was formed based on the mandate of Law Number 11 of 2006 concerning the Aceh government, which states that the Wali Nanggroe Institution is intended to be a traditional institution and a symbol of unifying the people of Aceh. The UUPA regulates several matters relating to the Wali Nanggroe Institution where this institution is the traditional leadership which has the authority to guide and supervise the implementation of the life of traditional institutions, customs and the granting of titles and traditional ceremonies.

¹ Amirul Hadi, *Aceh Sejarah Budaya dan Tradisi*, Yayasan Pustaka Obor, Jakarta 2010, hlm. 20.

² H.M Zainuddin, *Tarikh Aceh dan Nusantara*, LSKPM, Banda Aceh, 2012, hlm. 532.

³ Pasal 1 Ayat 2 Undang-undang Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh

⁴ Pasal 96 Ayat 1 Undang-undang Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh

Wali Nanggroe has the right to grant honorary titles or customary degrees to individuals or institutions, both domestic and foreign, whose criteria and procedures are regulated by Aceh Qanun (Article 97). Specifically regarding customary institutions, it is stated: First, customary institutions function and play a role as a vehicle for community participation in the administration of Aceh and district / city governance in the fields of security, tranquility, harmony and order.⁵

Another rule in the form of Qanun that specifically regulates Wali Nanggroe is Qanun number 8 of 2012 concerning the Wali Nanggroe Institution, which regulates the functions, responsibilities and authorities as well as procedures for its election, this Qanun has undergone changes with Qanun Number 9 of 2013 concerning the Wali Nanggroe Institution .

In 2012, the position of Wali Nanggroe was held by T. Malik Mahmud al-Haytar as a noble wali nanggroe, according to Aceh history expert Rusdi Sufi that the appointment of Wali Nanggroe was carried out because there were no clear regulations regarding who the next successor was, Malik Mahmud was chosen because of his close relationship with Hasan Tiro, where he was considered a potential in replacing Hasan Tiro. although there are still many pros and cons of the appointment.

The problem of wali nanggroe election for the 2018-2023 period is said to be legally invalid or legally flawed, and carried out without an election, besides that there are certain elements in qanun number 8 of 2012 concerning the wali nanggroe institution which is not involved but only by agreement of the three assemblies namely the Tuha Peut Council, Tuha Lapan, and the Fatwa Council, which reappointed Malik Mahmud as Wali Nanggroe for the 2018-2023 period.

Based on the background of this problem, the author is interested in researching the legal flaw in the election of "Wali Nanggroe" for the 2018-2023 period in Aceh.

RESEARCH METHODS

1. Type of Research

The object of the problem to be examined in this research is the legal flaw in the selection of wali nanggroe, so this research implies a method based on legal analysis. The description of the object of the problem to be examined is related to the wali nanggroe candidate selection system, the wali nanggroe election mechanism in accordance with

⁵ Ikrar Nusa Bhakti, *Beranda Perdamaian: Aceh Tiga Tahun Pasca MoU Helsinki*, Pustaka Pelajar, Yogyakarta, 2008, hlm, 13.

qanun number 8 of 2012, and legal problems in the election of wali nanggroe. Based on these objects, this study uses a type of normative legal research. According to Soerjono Soekanto, normative legal research is research conducted by examining library materials or secondary data.⁶

2. Research Approach

The approach method in this research uses the statutory approach (Statute Approach), which is to make laws or statutory regulations the basis for conducting research or objects in this study. Conceptual Approach (Conceptual Approach) to understand the concept related to the problem to be studied.⁷

The conceptual approach (Conceptual Approach) departs from the views and doctrines developed in legal science, to find ideas that give birth to legal concepts and legal principles that are relevant to legal issues..⁸

3. Data Sources

In this study the authors will use three materials as a source in obtaining data, while the legal materials are primary legal materials, secondary legal materials and tertiary legal materials.

Primary legal material is legal material that is authoritative in nature, meaning that it has authority consisting of legislation⁹ or it can be said that primary legal materials are all legal materials that are formally established and / or formulated by a State institution.¹⁰

In this research, the primary legal materials used include:

- a. 1945 Constitution of the Republic of Indonesia
- b. Law Number 11 of 2006 concerning Aceh Government
- c. Qanun number 8 of 2012 concerning the Wali Nanggroe Institution
- d. Qanun Number 9 of 2013 Amendment to Qanun Number 8 of 2012 concerning the Wali Nanggroe Institution

Secondary legal materials are materials that reinforce the analysis in terms of legal principles, legal principles against legal principles from primary legal materials, supported by the strengthening of legal arguments based on the opinions of legal experts related to legal issues, which originate from references from scientific works and research reports,

⁶ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif* Rajawali Pers, Jakarta, 1985, hlm. 18.

⁷ Jhonny Ibrahim, S.H., M.Hum., *Teori dan Metodologi Penelitian Hukum Normatif*, Bayu Media, Surabaya, 2005, hlm 302-308.

⁸ Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana, Jakarta, 2005, hlm. 95.

⁹ Ibid, hlm. 141.

¹⁰ Soetandyo Wignjosebroto, *Hukum, Konsep Dan Metode*, Setara Press: Malang, 2013, hlm. 67.

legal journals that have relevance to the problem, so that a comprehensive review can be obtained. The use of secondary legal materials is to provide the researcher with some sort of clue in which direction the researcher is going.¹¹

Tertiary legal material is a reference source to further confirm or imply the existence of various legal consequences that may arise from the occurrence of certain legal events..¹² Forms of tertiary legal materials such as legal dictionaries, encyclopedias, and others.

4. Data collection technique

To support this writing the writer uses several material collection techniques to obtain accurate and valid material, while the material collection technique that the author uses is the documentation method where this method will be used to find data about things in the form of notes, transcripts, books, newspapers, magazines and so on related to the concept of the issue of filling an institution's position. The steps taken include:

- a. Direct quotation or through the author's interpretation (textual).
- b. Paraphrase (deduction of information from legal materials).

5. Data Processing and Analysis Techniques

After the legal materials have been collected, processing is carried out by classifying the existing materials according to the order of the problem under study, while the irrelevant legal materials are put aside so that the analysis can be focused on the relevant materials.

As for analyzing legal materials, analysis is carried out using descriptive analytical methods¹³, from the results of the analysis, then interpretation or legal interpretation is carried out through the help of methods or teachings on interpretation, including including authentic interpretation, grammatical interpretation, systematic interpretation, comparative interpretation, and futuristic interpretation. The interpretation that the writer uses in this paper is a systematic interpretation.

RESEARCH RESULTS AND DISCUSSION

1. Wali Nanggroe Candidate Selection System

In concept, the system of selecting candidates to fill certain positions in an institution is very important, one of the systems used now is the merit system, where this system in

¹¹ Ibid, hlm. 155.

¹² Soetandyo Wignjosoebroto, *Hukum, Konsep,,* hlm. 71.

¹³ Soejono dan Abdurrahman, *Metode Penelitian Hukum*, Cetakan II, Jakarta : Rineka Cipta, 2003, hlm. 23

management theory is the management of human resources in the organization based on merit. According to McCourt, the merit system is "the appointment of the best person for any given job," meaning that the appointment of the best person for a particular affair.

The term merit is also popular with the concept of meritocracy which was popularized by Michael Young. Meritocracy is defined as a characteristic of society as a whole, thus meritocracy is a social system in which the overall proportion of a person is given directly from the results of the assessment of ability.¹⁴

The merit system has several indicators in recruitment, namely: 1) good and reliable planning through creative and aggressive recruitment techniques; 2) all who participate in the program are responsible and well defined; 3) recruitment involves capable individuals and appropriate resources; 4) all candidates are treated fairly regardless of political background, race, religion, color, ethnic origin, gender, marital status, age or disability, and receive appropriate compensation for their privacy and constitutional rights; 5) selection is based on ability, knowledge and expertise through fair competition and is open to all to have equal opportunities; 6) selection methods can be used to ensure that only candidates are able to find jobs and place them in the most appropriate positions; 7) those who pass the selection must be accepted and protected.¹⁵

Related to the juridical wali nanggroe electoral system, it is contained in article 69, which stipulates the conditions that must be fulfilled by the candidates:¹⁶

- a. Acehnese who believe and have devotion to Allah SWT;
- b. physically and mentally healthy and has been 40 (forty) years of hijriah;
- c. can speak Acehnese fluently and well;
- d. known good and noble lineage and lineage of Acehnese people up to four descendants and above;
- e. has a noble character and is not wrongdoing;
- f. knowledgeable, prudent, wise and insightful;
- g. brave and true and responsible;
- h. fair, honest, loyal, and trustworthy;
- i. Patient, forgiving, humble and compassionate; and
- j. love the people and are loved by the people.

¹⁴ Dida Daniarsyah, *Penerapan Sistem Merit Dalam Rekrutmen Terbuka Promosi Jabatan Pimpinan Tinggi ASN (Suatu Pemikiran Kritis Analisis)*, Jurnal Civil Service, Vol 11 No. 2, November 2017, hlm 43

¹⁵ Sulardi. *Implementasi kebijakan rekrutmen dan seleksi CPNS daerah di era otonomi daerah (studi kasus di Kota Surabaya, Kabupaten Tabanan dan Kabupaten Lombok)*. PhD Thesis. University of Brawijaya, 2005.

¹⁶ Qanun Aceh Nomor 8 Tahun 2012 Tentang Lembaga Wali Nanggroe

Article 71 states that if there are more than one candidate for Wali Nanggroe and meet the same criteria, then the candidate who meets the criteria, observes the requirements given in article 69, the qanun explains in detail the requirements of the wali nanggroe candidate, even the candidate can only more than one person, the system has met the merit system, meaning that it can be concluded that the law is effective, but in its implementation, in the 2018-2023 period, there is no open selection of wali nanggroe candidates, because the qanun opens the opportunity for anyone to register to become candidate wali nanggroe. However, this was not done, according to one of the former wali nanggroe staff there should have been notification of the selection of candidates, and the procedure had to be clearly rearranged.¹⁷

2. Wali Nanggroe Election Mechanism According to Qanun Number 8 of 2012

The election of public officials who are elected can be carried out by direct election by the people (directly elected by people), direct election by the people but not referred to as general elections indirect or semi-direct elections, namely through the electoral council, 'electoral college', 'ahlul halli wa al-aqdhi ', or what is called by other names; or indirect elections through representative institutions, such as the DPR (parliament).¹⁸

The election of Wali Nanggroe is based on Article 70 paragraph which states that Wali Nanggroe is elected by deliberation and consensus by the specially formed Wali Nanggroe Election Commission. And in paragraph 2 it is stated that the Wali Nanggroe Election Commission as referred to in paragraph 1 consists of the tuha peut council, the tuha lapan council, the mufti and representatives of ulama from the regency.¹⁹

The Wali Nanggroe Election Commission which has been formed has the right to determine several wali nanggroe candidates, besides that one of the candidates who must be determined is from Waliyul'ahdi. Waliyul'ahdi is a Wali Nanggroe stakeholder or a person who is the working apparatus of the Wali Nanggroe Institution who carries out the duties, functions and authorities of Wali Nanggroe, if Wali Nanggroe is unable to carry out his duties in a sustainable manner or is permanently incapacitated.²⁰

The history of Wali Nanggroe in Aceh began when 11-year-old Sulthan Muhammad Daud Syah was appointed king. The formation was carried out on January 25, 1874 through a meeting of the Tuha Peut Council consisting of Tuanku Muhammad Raja

¹⁷ <https://mail.habadaaily.com/hukum/14331/presma-unaya-pengukuhan-wali-nanggroe-ada-kecabatan-hukum.html>

¹⁸ Jimly Asshiddiqie, "Liberalisasi Sistem Pengisian Jabatan Publik" Makalah disampaikan dalam Seminar Konferensi Hukum Tata Negara-2, UNAND, Padang, September 2015

¹⁹ Qanun Aceh Nomor 8 Tahun 2012 Tentang Lembaga Wali Nanggroe

²⁰ Ibid, Pasal 1 Ayat 10

Keumala, Tuanku Banta Hasyem, Tuanku Panglima Polem Raja Kuala and Teungku Tjik Di Tanoh Abee Syech Abdul Wahab. On January 28, 1874, the Chairman of the Tuha Peut Council of the Kingdom of Aceh appointed Al Malik Al Mukarrah as the first Wali Nanggroe.²¹ The position was then passed down from generation to generation in the rage of the Aceh war against the Dutch. The position whose mandate was stated in the SK or Sarakata Wali Nanggroe was found by Captain Smith in the teungkulok (turban) Tgk Tjik Di Tiro Muaz Bin Muhammad Amin, which was then stored at the Bronbeek Museum in the Netherlands.²²

Before the ratification of the Qanun on wali nanggroe, in the sixth part of the draft qanun of the wali nanggroe institution article 14, Hasan Tiro was called the eighth Wali Nanggroe Aceh, in point two of the article it was stated that based on the results of the sigom donya meeting in Stavanger, Norway in July 2002, if Hasan Tiro died, then Malik Mahmud as the prime meuntroe, Zaini Abdullah as Mentroe Luwa, then Malik Mahmud Al Haytar directly became the holder of the position (waliyul'ahdi) Wali Nanggroe as the executor of wali nanggroe. Hasan Tiro as Wali Nanggroe died on June 3, 2010, so that the position of Malik Mahmud as executor, on November 2, 2012 was appointed as the ninth wali nanggroe in Aceh.²³

3. Legal Flaws in the Election of Wali Nanggroe for the 2018-2023 Period

A legal flaw can be interpreted as an agreement, policy or procedure that is not in accordance with the applicable law, so that it is said to be flawed and not legally binding, for example, the election of the leadership of the KPK in November 2011, the State Administrators Asset Report (LHKPN) belonging to Abraham Samad was declared defective. formal because signing the wrong power of attorney form.²⁴

The term legal defect in English is called Legal Defect, as stated below:

“That which subject to a defect is missing a requisite element and therefore, is not legally binding. Defective service of process, for example, is service that does not comply with a procedural or jurisdictional requirement. A defective will is one that has not been properly drawn up, has been obtained by unlawful means, or does not comply with a

²¹ Teungku Ibrahim Alfian, *Wajah Aceh dalam Lintasan Sejarah*, Pusat Dokumentasi dan Informasi Aceh, Banda Aceh, 1999, hlm. 211.

²² <http://abulyatama.ac.id/?p=5201> diakses pada 25 Maret 2021

²³ Otto Syamsuddin Ishak, *Aceh Pasca Konflik Kontestasi 3 Varian Nasionalisme*, Bandar Publishing, Banda Aceh, 2013, hlm 205

²⁴ <https://www.hukumonline.com/klinik/detail/ulasan/lt556fa8a2b1100/arti-cacat-hukum/> diakses pada 25 Maret 2021

particular law.. In some cases, however, defects can be cured for example, defective service of process can be cured by the service of an amended complaint”.²⁵

Based on the above definition, we can conclude that a legal flaw is a legal imperfection or incompleteness, either in terms of rules, agreements, policies or other matters caused because it is not in accordance with the law, is not legally binding and is not legally valid.

An example of a decision that is considered legally flawed is Presidential Decree Number 87 of 2013 which was canceled through a court decision of State Administration Number 139 / G2013 / PTUN-JKT. Based on this decision, it was found that the Presidential Decree, which essentially appointed Patrialis Akbar and Maria Farida, was considered legally flawed because it was against Article 19 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court which requires the selection of judges. the constitution must be transparent and participatory.²⁶

Examining the election of Wali Nanggroe in Aceh for the 2018-2023 period, legally regulated in Aceh Qanun Number 8 of 2012 in conjunction with Aceh Qanun Number 9 of 2013 concerning Wali Nanggroe Institution Chapter V Election Mechanism Part One Wali Nanggroe Paragraph 2 Eligible Elements Voting Article 70 reads:

- a. Wali Nanggroe is elected by deliberation and consensus by the specially formed Wali Nanggroe Election Commission.
- b. The Wali Nanggroe Election Commission as referred to in paragraph (1) consists of:
 - 1) Tuha Peuet Wali Nanggroe Council;
 - 2) Tuha Lapan Wali Nanggroe Council;
 - 3) Mufti or his representative; and
 - 4) Representative of Alim Ulama in each district / city 1 (one) person.
- c. The Wali Nanggroe Election Commission led by the head of the Election Commission consists of:
 - 1) Chairman; and
 - 2) Vice Chairman.
- d. The leadership as referred to in paragraph (3) shall be elected by the Member of the Election Commission of Wali Nanggroe.

²⁵ <https://legal-dictionary.thefreedictionary.com/defect> diakses pada 25 Maret 2021

²⁶ <https://www.hukumonline.com/klinik/detail/ulasan/1t556fa8a2b1100/arti-cacat-hukum/> diakses pada 25 Maret 2021

- e. Leaders and Members of Wali Nanggroe election are determined by Wali Nanggroe's decision.

The inauguration of Wali Nanggroe is carried out by the DPRA, which carries out the mandate of Qanun Number 9 of 2013, namely that the inauguration as referred to in paragraph (6) is carried out in a special Aceh DPR Plenary Session. According to M Adli Abdullah, the appointment of Tengku Malik Mahmud as Wali Nanggroe for the 2018-2023 period without the election process was a procedural flaw, because the determination was not through the mechanism of Qanun Number 9 of 2013 where this determination was only through the agreement of three upper houses that held deliberations and elements of the ulama who represented districts are not involved as the Election Commission.²⁷

Representatives of religious scholars from each district / city in Aceh are important to consider in determining the Wali Nanggroe because apart from the mandate of Qanun Number 8 of 2012, in this case the alim ulama has the status of a mufti. The involvement of the ulama as the mufti in exercising their voting rights means that Wali Nanggroe is chosen by selected people who understand deeply what the criteria for a good guardian are according to sharia guidance and the personality of a prospective guardian based on the characteristics of the criteria for leaders recommended in Islam as representatives of life, social and cultural aspects that exist in the life order of the Acehnese people that breathe Islam as a whole. Thus it can be understood that religious scholars from all over Aceh have the same political right to determine Wali Nanggroe as waliyul'ahdi as well as a role model for all the people.

The importance of the role of the ulama in the election of Wali Nanggroe as one of the main elements determining the election of Wali Nanggroe is contained in Article 70 paragraph (1) Qanun Number 8 of 2012 which states that Wali Nanggroe is elected by deliberation and consensus by the Wali Nanggroe Electoral Commission which is formed independently. special. Then in paragraph (2) it is stated that the Wali Nanggroe Election Commission as referred to in paragraph (1) consists of the Tuha Peuet Council, the Lapan Council, the mufti, and representatives of religious scholars from each regency / city.

According to M. Adli Abdullah, the election of Wali Nanggroe for the 2018-2023 term is an imposition of the will. M. Adli Abdullah argues that the appointment of Wali Nanggroe X is more political in an effort to fulfill Malik Mahmud's wish to defend himself as Wali Nanggroe Aceh without going through the right mechanisms. These problems

²⁷ <https://aceh.tribunnews.com/2018/12/14/penguksuhan-malik-berpeluang-digugat?page=2>
diakses pada 25 Maret 2021

have resulted in legal tragedy and fulfilled elements against the law in which the election of Wali Nanggroe is not in accordance with the mechanism regulated in Article 70 paragraph (1) Aceh Qanun Number 8 of 2012.²⁸

Constitutional Law Expert Unsyiah Husni Djalil said the election of Wali Nanggroe who did not meet the elements in article 70 paragraph 1 Qanun Number 8 of 2012 was carried out due to time constraints so that he did not have time to form an election commission, even though the time span from 2012 to 2018 was very possible to form commissioner.²⁹

CLOSING

1. Conclusion

The selection system for Wali Nanggroe Aceh candidates for both the first period of 2012 and the second period of 2018 since the existence of Qanun Nmor 8 of 2012 has not been transparent, even it was not widely announced regarding the implementation of candidate selection, although in Qanun it was stated that the Wali Nanggroe candidate could be more than one person. .

The wali nanggroe election mechanism according to Qanun Number 8 of 2012, a Wali Nanggroe Election Commission consisting of 4 (four) elements must be formed. In addition, in the election, the requirements for the Wali Nanggroe candidate must be considered which have been clearly stipulated in the Qanun.

The election of Wali Nanggroe for the 2018-2023 period was legally declared flawed, because it did not fulfill one of the elements that played an important role in the Election Commission, in the absence of representatives of ulama from each Regency / City, thus the absence of one of the elements caused the deliberation decision to be considered not from the Election Commission agreement.

2. Suggestion

The selection of Wali Nanggroe Candidates should be opened to the public and announced to the public in relation to the submission schedule for administrative requirements submitted to the Wali Nanggroe Election Commission and the selection must be transparent, candidates must meet the criteria stipulated by Qanun. This should be done to fulfill the merit system.

²⁸<https://aceh.tribunnews.com/2018/12/14/pengukuhan-malik-berpeluang-digugat?page=2> diakses pada 25 Maret 2021

²⁹<https://www.ajnn.net/news/prof-husni-pengukuhan-wn-tanpa-pemilihan-tidak-ada-dasar-hukum/index.html> diakses 25 Maret 2021

The election mechanism regulated in the Qanun has not fully accommodated the election mechanism, it is necessary to make separate rules related to the Wali Nanggroe election mechanism, as regional head elections are always based on separate laws, for example Law Number 10 of 2016.

Legal flaws in the election of Wali Nanggroe should be avoided, meaning that the election must follow the orders and mandates of Qanun Number 8 of 2012, even though the Election Commission has not yet been formed, but temporarily it can be done by making a Wali Nanggroe Implementing Decree (PLT), until the election of a Wali. The new Nanggroe

3. Recommendation

The research that the author has done is certainly inseparable from shortcomings, meaning that there are still the same problems that the author has not even thought of, but can be continued and carried out by subsequent researchers, therefore considering the importance of the substance of the rule of law, the authors recommend further research "Political Reconstruction of Law Qanun Number 8 of 2012 concerning the Wali Nanggroe Institution".

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