



Optimizing the role of the aceh government in health implementation based on the principle of legal certainty

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Abstract

The system of implementing regional government, namely autonomy and assistance duties, the purpose of implementing regional government, especially in Aceh Province, which has the status of a special autonomy region, is regulated by Law Number 11 of 2006 concerning the Government of Aceh which has been amended several times, Aceh Province obtains special autonomy funds that are used to provide health services and facilities to the people of Aceh as stated in Article 183 of the UUPA juncto Article 10 and Article 11 of Qanun Aceh Number 1 of 2018 concerning Procedures for Allocating Additional Oil and Gas Revenue Sharing Funds and The Use of Special Autonomy Funds used for the health of the people of Aceh. The research method uses normative juridical, data collection is secondary, primary and tertiary data, data analysis is carried out qualitatively. The results of the study that the special autonomy fund is an acceptance of the Government of Aceh intended to finance health based on Article 183 of Law Number 1 of 2006 juncto Article 10 and Article 11 of Qanun Aceh Number 1 of 2018 The Government of Aceh in the implementation of health must be based on existing regulations in terms of the use of special autonomy funds intended for health, and the need for a supervisory function carried out by the Aceh People's Representative Council due to the authority of the it is attached to the institution based on Article 22 Paragraph (1) of Law Number 11 of 2006 which states that the Aceh People's Representative Council has supervisory, budgetary and legislative functions, therefore it is necessary to carry out optimally the supervision to the Aceh Government as a user of the special autonomy fund, the impact of supervision of the autonomy fund indirectly on the prevention and enforcement of corruption in Aceh.

Keywords: aceh government, health, legal certainty

Introduction

Based on the provisions of Article 18 of the 1945 Constitution (1945 Constitution) the Unitary State of the Republic of Indonesia is divided into provincial areas and the provincial area is divided into regencies and cities, each of which has a regional government regulated by law. The purpose of establishing local government is to improve services to the community, one of which is to provide health services to the community.

Regarding health to the public, it is the responsibility of the state as a government that has the authority in the implementation of the health sector. The fulfillment of the right to health based on the 1945 Constitution in Article 28 H Paragraph (1) states that "Everyone has the right to live a prosperous life born and mentally, to live, and to obtain a good and healthy living environment and has the right to get health services". Paragraph (2) "The State develops a social security system for all Indonesians and empowers the weak and incapacitated in accordance with the dignity of humanity". and Subsection (3) "The State shall be responsible for the provision of proper health care facilities and public services".

Every community has the right to get health services financed by the central and local governments through the State Budget (APBN) and the Regional Budget (APBD). The government is obliged to provide and provide health services to the community through regional hospitals to village-level servants, because health is one of the most important needs of the community.

The importance of health can be felt during the Covid-19 period where the community is very threatened with their health, so that community activities are limited to prevent contracting the dangerous virus, in addition to the health services provided to the community, the government needs to pay attention to the health facilities available so far in every hospital and health center in each sub-district to obtain maximum health services. The importance of optimizing the role of local government institutions (executive and legislative).

According to Suhady, the government (government) in terms of its understanding is "... the authoritative direction and administration of the affairs of men/women in a nation state, city, ect" means, as the direction and administration of the authority over the activities of the community in a state, province and district / city, government can be interpreted as the governing body of a nation, state, city, etc. that is, the institution or body that organizes the government".^[1]

The definition of government is seen from its nature, namely the government in a broad sense includes all powers, namely legislative, executive, and judicial powers. Whereas the government in the narrow sense includes only the executive branch of power.^[1] Therefore, the role of the legislature is very important in the implementation of local government to provide supervision to the executive as the organizer of the government to ensure that the executive in carrying out its government is based on the provisions of existing laws and regulations.

The local government (executive) is the head of local government as an element of local government that leads the implementation of government affairs which is the authority of the autonomous government, while. The Regional People's Representative Council (legislature) is a regional people's representative institution that is domiciled as an element of local government administration ^[2]. The two institutions have duties, functions and responsibilities in terms of the implementation of local government as stated in Law Number 23 of 2014 concerning Regional Government (Local Government Law).

Regarding health services and facilities, especially Aceh Province, it is specifically regulated in Law Number 11 of 2006 concerning the Government of Aceh and Qanun Number 1 of 2018 concerning the use of special autonomy funds where the Government of Aceh is responsible for providing health services and ensuring the health of the people of Aceh. Unlike other regions in Indonesia, Aceh is a special autonomy region regulated by the Aceh Government Law.

Especially regarding the implementation of the Aceh Provincial government based on the provisions of Law Number 11 of 2006 concerning the Government of Aceh (UUPA). The state recognizes and respects special or special local government units regulated by law as stated in Article 18B Paragraph (1) of the 1945 Constitution.

The Aceh government has responsibility and authority in the implementation of Aceh public health services and facilities, based on the provisions of Article 16 Paragraph (1) of Law Number 11 of 2006 states that "mandatory affairs that are the authority of the Aceh Government as referred to in Article 14 paragraph (3) are affairs on the Scale of Aceh which include e. handling of the health sector".

The Aceh government consists of the Aceh People's Representative Council (DPRA) is an element of government administration whose members are elected through general elections, and. The Aceh government is the organizer of the Aceh government consisting of the Governor and regional apparatus of Aceh (UUPA 2006). Therefore, DPRA and the Government of Aceh both have the responsibility of providing health services to the people of Aceh as specifically regulated in the Law on the Government of Aceh and Qanun Aceh Number 1 of 2018.

In essence, health is a basic right to every individual, the Government is responsible for regulating the degree of healthy living for all people.^[3] In 2020 and 2021 where the Covid-19 virus outbreak spreads so quickly to the community which has a bad impact on public health, and can be fatal, namely the death of everyone who has contracted the virus. Therefore, health is very important in everyone's life, thus the government, especially the Aceh Government, has a great responsibility for health services and facilities at both the puskesmas level and government-owned public hospitals.

The role of the Aceh Government and the Aceh People's Representative Council to realize these health services must provide health services evenly, fairly, and reachable for all districts/cities in Aceh. Therefore, the government must make several efforts to ensure access to health services for the entire community.^[4]

Every Acehnese community is obliged and must obtain health services for government hospitals and hospitals that work with the Aceh Regional Government because the cost of special autonomy is given to the Aceh government to be managed in the health sector, this is stated in Articles 10 and 11 of Qanun Aceh Number 1 of 2018 regarding the use of special autonomy funds, the health services referred to here, namely every community easily get good treatment services at the level of treatment Puskesmas and large hospitals without having to go to the capital of Aceh Province, the importance of health facilities and services is evenly distributed in every city district in Aceh.

Health services in Aceh will be able to run well if the Government of Aceh in exercising its authority as stipulated in the existing regulations, the need for the role of the Aceh People's Representative Council institution to supervise the Government of Aceh as the implementation of Article 10 and Article 11 of Qanun Aceh Number 1 of 2018. The Government of Indonesia has granted the Aceh Government a special autonomy fund every year for health services.

The legal basis is Article 183 Paragraph (1) of Law Number 11 of 2006 concerning the Government of Aceh that "the special autonomy fund as referred to in Article 179 paragraph (2) point c, is the revenue of the Government of Aceh which is shown to finance, especially health.....".

In its implementation, the Government of Aceh requires other regulations to further regulate the use of this special autonomy fund in the form of Qanun Aceh. The Aceh People's Representative Council and the Government of Aceh discussed and established Qanun Aceh Number 1 of 2018 concerning the third amendment to Qanun Aceh Number 2 of 2008 concerning Procedures for Allocating Additional Oil and Gas Revenue Sharing Funds and the Use of Special Autonomy Funds.

The journey of Qanun Aceh can be described as follows, after two years the Aceh Government stipulated about Qanun Aceh Number 2 of 2008 where the Aceh Government during the time of Governor Irwandi Yusuf and Nazar together with the Aceh People's Representative Council passed Qanun Number 4 of 2010 concerning Health. The Aceh Health Insurance System which is an individual health subsystem that uses the principles of social health insurance that applies to all residents of Aceh based on Qanun Aceh Number 4 of 2010 states the

objectives, rights and obligations of the community and the Government of Aceh provides health services to people with Aceh ID cards.

However, what is currently happening is that the Aceh Government will stop paying health premiums for 2.2 million people as of April 1, 2022. The premiums of these residents have been covered in the Aceh Health Insurance (JKA) program, so far there are four categories of health premiums in Aceh, including 2.2 million people borne by JKA, 123 thousand independent participants and 801 thousand are civil servants/TNI. For people covered by the National Health Insurance Healthy Indonesia Card (JKN-KIS) totaling 2.1 people. The Aceh People's Representative Council and the Government of Aceh then emphasized the assurance of ensuring the rights of the poor in terms of health insurance that had been borne by the central government.

The Aceh government in this case in the implementation of health needs to have a principle of legal certainty, has not it been regarding the health of the People of Aceh regulated in Law Number 11 of 2006 concerning the Government of Aceh and Qanun Number 4 of 2010 concerning Health. The principle of legal certainty here is as a condition where the law is certain because of the concrete force for the law concerned. The existence of the principle of legal certainty is a form of protection for the judiciary (seeker of justice) against arbitrary actions, which means that a person will and can obtain something expected in certain circumstances.^[5]

Further regarding legal certainty, Lord Lloyd said that, "...law seems to require a certain minimum degree of regularity and certainty, for without that it would be impossible to assert that what was operating in a given territory amounted to a legal system". From this view, it can be understood that without legal certainty people do not know what to do and eventually cause uncertainty which will eventually cause chaos due to the indecisiveness of the legal system. Thus, legal certainty refers to the clear, permanent and consistent enactment of the law where its implementation cannot be influenced by circumstances of a subjective nature.^[6]

The Aceh government in this case for handling public health still has a role in the implementation of Acehese public health because it is stated in Law Number 11 of 2006 concerning the Government of Aceh, Qanun Number 4 of 2010 concerning Health, and Qanun Number 1 of 2018 concerning the use of special autonomy funds.

The authority given to the Government of Aceh is an attribution that needs to be maximized properly, therefore the task of the Aceh People's Representative Council is to provide supervision, approval and draft budgets for the Aceh Government to carry out because it is a function of the legislative institution. In accordance with the prevailing laws and regulations, the implementation of local government has undergone several changes for about a time, the implementation of local government must be based on the principles contained in Article 58 of Law Number 23 of 2014 concerning Local Government "Regional Government Organizers, as referred to in Article 57, in organizing Regional Government are guided by the principle of organizing state government consisting of a. legal certainty, b.orderly state organizers, c.public interest, d.Openness, e.Proportionality, f.Professionalism, g.Accountability, h.Efficiency, i.effectiveness and j.Fairness".

The principle of government administration in Aceh based on Article 20 of Law Number 11 of 2006 concerning the Government of Aceh is guided by the general principles of government administration consisting of: a. The principle of islam, b. The principle of legal expediency, c. The principle of public interest, d. The principle of orderly administration of local government, e. The principle of openness, f. The principle of proposionality, g. The principle of propofesionality, h. The principle of accountability, i. The principle of efficiency, j. The principle of effectiveness and k. The principle of equality.

The Aceh government must really make good use of and special autonomy and manage the government with general principles of good governance, this provision is also contained in Law Number 30 of 2014 concerning State Administration Article 1 number 17 General Principles of Good Governance (AUPB) is a principle used as a reference for the use of authority to government officials in issuing decisions and / or actions in organizing government.

In the context of regional autonomy, local governments rely on three principles as stipulated in Article 5 Paragraph (4) of Law Number 23 of 2014 regional government, namely decentralization, deconsetration, and assistance tasks, the implementation of decentralization is the handover of Government Affairs by the Central Government to autonomous regions based on the Principle of Autonomy.

Deconcentration is the transfer of part of Government Affairs which is the authority of the Government to the governor as a representative of the Government, to vertical agencies in certain regions, and/or to the Governor and Regent/Mayor as the person in charge of general government affairs. And the Assistance Task is an assignment from the Government to the autonomous regions to carry out some government affairs that are the authority of the Central Government or from provincial governments to regencies/cities to carry out some government affairs that are the authority of provincial regions (Local Government Law. 2014).

Optimization of the role of the Aceh Government in particular in the implementation of health needs to be maximized properly so that the community gets a positive impact on the implementation of the Aceh Government, whether or not an area, especially regarding the health of the Acehese people, is very dependent on the Aceh government, the most important thing is that in its implementation it must provide legal certainty to the people of Aceh.

The problem that occurs in this scientific paper is how the Aceh Government has managed a special autonomy fund for health services, and whether the Aceh People's Representative Council has carried out the supervisory function of health facilities and services by the Aceh Government.

Research Method

The method used juridical is normative. The approach methods used are the statutory approach, the concept approach, and the case approach.^[7] The source of data and data collection techniques used in this study is the literature of data from written materials analyzing data using qualitative, namely data obtained from written materials (Laws, documents, books, and so on). For data analysis, use qualitative by studying or analyzing the problem in depth to get answers to identify problems in this scientific writing.

Results and Discussions

Aceh Government Manages Special Autonomy Fund for Health

The legal basis for Aceh Special Autonomy is Law Number 11 of 2006 concerning the Government of Aceh. Article 183 Paragraph (1) states that the special autonomy fund is the government of Aceh revenue aimed at financing development, especially infrastructure development and maintenance, people's economic empowerment, poverty alleviation, and education, social, and health funding. Then in Article 183 Paragraph (2) the special otonomi fund is valid for a period of 20 years, with the details of (1) the first year to the fifteenth year the amount is equivalent to 2% of the ceiling of the national General Allocation Fund (DAU) and (2) the sixteenth to the twentieth year is equivalent to 1% of the national DAU ceiling.

The total receipt of Aceh's special autonomy fund from 2008-2021 has reached approximately IDR 84.32 trillion. The receipt of special autonomy funds has increased every year, first Aceh Province obtained a special autonomy fund of IDR 3,590 trillion in 2008, then continued to increase until 2021 which will end in 2027. The receipt of Aceh's special autonomy fund continues to increase gradually as the security has been contained in Article 183 Paragraph (2) of the UUPA.

It is necessary to carry out a master plan for the use of the Aceh special autonomy fund to explain in detail the use of the special autonomy fund, but what is currently not done in detail has been carried out to explain the achievements that will be realized through the management of these funds. This is an obstacle in measuring the success of the use of special autonomy funds. However, the current program provides recommendations that the Aceh Government has carried out the management of special autonomy funds as stated in the UUPA and Qanun Aceh Number 1 of 2018, one of which is to provide health to the community.

It can be seen from the seriousness of the Aceh Government which continues to improve in providing health services to the community equally, it can be seen from the government's program by creating several regional hospitals and providing facilities to every hospital and puskesmas in Aceh to improve health services to people who need it. The peak was in 2020 -2021 the occurrence of a health emergency caused by Covid-19. The Aceh government provides health services to people who have contracted the dangerous virus, namely Covid-19 at the Aceh Regional General Hospital, to people from various octoa districts infected with the virus to get treatment intensively by the medical team that is already at the Aceh Regional Hospital. in addition, the government provides assistance to the community during the impact of Covid-19 which prevents people from being able to carry out their usual activities. This is a form of management of aceh special autonomy fund so far in terms of health implementation. Every decision of aceh government institutions must be based on laws and regulations and general principles of good governance as a foundation for the protection of society (M. Rendi Aridhayandi. 2018). Aceh Governor Regulation Number 78 of 2015 juncto Aceh Governor Regulation Number 114 of 2018 concerning the master plan for the use of Aceh special autonomy funds in 2008-2027. The master plan for the use of Aceh's special autonomy fund serves as a guideline to the Government of Aceh in determining priority programs and activities whose funding comes from special autonomy funds. Through aceh's special autonomy master plan, there are three objectives of Aceh's special autonomy, namely^[8]:

1. Integration of development programs based on the functions of the government, provincial governments and district/city governments in accordance with region, space, and time.
2. The linkage and consistency of development between planning, budgeting and implementation, and
3. The realization of the effective, efficient, and equitable and sustainable use of resources.

The special autonomy fund for Aceh is in principle part of the asymmetric decentralization policy, in the same year Papua also received Special Autonomy status through Law 21 of 2001.^[8] It is important to know that the special autonomy fund is given only to a few provinces based on the specific status of the region. Aceh itself is one of the regions with a special and special status at the same time that obtains special autonomy funds in addition to Papua and West Papua which only have special status. Finally, special otonomi funds must be used for the benefit of the people of Aceh, one of which is in the health sector. The receipt of special autonomy funds is a middle ground that began to be widely accepted during the Aceh-Indonesia conflict.^[8] The Aceh government must develop health programs for the people of Aceh through special autonomy funds transferred by the central government, the full authority of the Aceh Government as the manager and organizer of the special autonomy fund.

The Supervisory Function of the Aceh People's Representative Council has been to the Aceh Government towards Health Services

Supervision of the implementation of the use of the Aceh Special Autonomy Fund is carried out by the Aceh People's Representative Council which has a supervisory function. Supervision of special autonomy funds needs to be carried out, such as supervising the implementation of the Aceh Budget.

The supervisory role is to ensure that everything goes in accordance with the provisions that have been regulated in the laws and regulations. The importance of supervision has an impact on future planning can be carried out based on the results of supervision of the implementation of activities in the previous period.^[9]

If it is associated with a special autonomy fund, supervision should be carried out to obtain commitments and provide recommendations on how the actual implementation of the special autonomy fund is carried out in the coming year to achieve predetermined targets. Therefore, the paradoxes of repressive success must be accompanied by the effectiveness of preventive and educational supervision. The reality is that the special autonomy fund always ignores the evaluation aspects of various existing stakeholders.

The uptake of special autonomy funds does not affect the amount of special autonomy funds in the following year. Because the government views the special autonomy fund as compensation to the regions, especially in Aceh. Please note that there is no special supervision system used to supervise the distribution of the Aceh Special Autonomy Fund, but there is also no special institution that monitors the planning process until the stage of implementing the special autonomy fund. However, there is one institution that has the authority to supervise the use of Aceh special autonomy funds, namely the Aceh People's Representative Council.

The most authorized and responsible supervisor of this special autonomy fund is the Central Government. In addition to having a coaching task, the central government also has the task of supervising the flow of special autonomy, which is part of the implementation of local government affairs. This is as stated in Article 7 of Law Number 23 of 2014 concerning Regional Government that "the Central Government carries out guidance and supervision of the implementation of local government affairs". That way the ministry in general carries out the task of coaching and supervision assisted by ministries or non-ministerial government agencies related to the implementation of technical guidance. While at the regional level, guidance and supervision are carried out internally by local governments, the internal institution that carries out these duties is the Inspectorate.

The impact of supervision also has implications for the difficulties in the use of the budget, namely seeing the planning and implementation system as an inherent function, the impact of supervision of special autonomy funds on the prevention and enforcement of corruption in Aceh and the preventive measures that must be taken to prevent corruption of special autonomy funds received by the Province of Aceh.^[10]

So that with this function, it is hoped that the supervision and budget process can be organized based on a double-check system that allows the representation of the interests of all people relatively to be channeled with a broader social base.^[11] In fact, the Aceh People's Representative Council functions more as a supervisory agency for the use of the budget by the regional government so that the use of the budget that has been discussed together on the proposal of the local government is really carried out without any deviations in the use of the budget.

Supervision carried out by the Aceh People's Representative Council must be optimized for the public interest and maximize the available budget for one year on target so that no activities to implement the budget are used for other purposes. especially the use of special autonomy funds used for health services which is an order and mandate of Article 183 of Law Number 11 of 2006 concerning the Government of Aceh juncto Article 10 and Article 11 of Qanun Aceh Number 1 of 2018 concerning the use of special autonomy funds in Aceh, one of which is intended for the health of the people of Aceh.

The Aceh People's Representative Council as a representative of the Acehnese people must really pay attention to all forms of aceh government administration, DPRA's authority is very central in terms of supervising special autonomy funds, with this supervision the Aceh government will be more careful in the use of autonomous funds, especially in the health sector.

Conclusion

Law Number 11 of 2006 concerning the Government of Aceh. In Article 183 Paragraph (1) that the Special Autonomy Fund is the revenue of the Government of Aceh aimed at financing health, every decision of the Aceh Government institution must be based on laws and regulations and general principles of good governance, therefore special otononmi funds must be used for the benefit of the people of Aceh, one of which is in the health sector. Supervision of the implementation of the use of the Aceh Special Autonomy Fund is carried out by the Aceh People's Representative Council which has a supervisory function. The impact of supervision also has implications for the difficulties in the use of the budget, namely seeing the planning and implementation system as an inherent function, the impact of supervision of special autonomy funds on the prevention and enforcement of corruption in Aceh, the use of special autonomy funds used for health services which is an order and mandate of Article 183 of Law Number 11 of 2006 concerning the Government of Aceh juncto Article 10 and Article 11 of Qanun Aceh Number 1 of 2018 concerning the use of funds of special autonomy.

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