

QANUN IN ACEH

Since Law No. 44/1999 on the realization of the Special Status of the Province of the Aceh was passed, the province, that lies at the western tip of Sumatra, has been given the authority to develop and manage many aspects of its own governance. Among such matters is the enforcement of Islamic Syariat Law, which is stipulated in the Regional Regulation (*Peraturan Daerah - Perda*) or Qanun, as it is commonly known in Aceh.

Article 1 (8) of Chapter I on General Provisions of the Law No. 18/ 2001 on the Special Autonomy for the Province of Aceh as the Province of Nanggroe Aceh Darussalam stipulates that the **Qanun** of Aceh are regional regulations designed to implement laws in the Province of Nanggroe Aceh Darussalam, within the framework of the region's special autonomous status.

Qanun are passed by the Regional House of Representatives (DPRD) in Aceh which, since the passing of the Law on Governing Aceh (*Undang-undang Pemerintahan Aceh - UUPA*) has become the DPRD of Aceh.

The Chairperson of DPRD Aceh, Sayed Fuad Zakaria, mentions that in general there are two ways of enacting Qanun. A draft Qanun can either be submitted by the Regional Government or a suggestion for a new Qanun can be made by the DPRD. In accordance with the procedures of the DPRD, a draft Qanun that is submitted to the House should be followed by an academic draft. The draft will be submitted to the Enforcement and Analysis Agency (*Badan Penerapan dan Kajian - BPK*) of DPRD Aceh (BPK will soon be known as the Legislation Committee (*Panitia Legislasi – Panleg*)). Panleg is one of the bodies in the DPRD that deals with specific issues related to Qanun. The next stage is that the draft will be discussed and the House will call for a session to discuss whether a Special Committee (*Panitia Kkhusus – Pansus*) should be formed for the development of the Qanun or whether it is sufficient to discuss the Qanun in the Commission only. The DPRD will later hold a session and the results will be presented to a plenary meeting after a hearing with the regional government, experts and government and non-government

organisations has been held. The hearing is carried out at the DPRD office of Aceh as well as other places in Aceh.

If a Qanun is proposed at the House's initiative, it can be either approved or rejected. When a Qanun is approved, it will then be decided whether it will be discussed by a *Pansus* or a Commission. A Qanun is currently being drafted by the DPRD Aceh which will regulate the Procedures for Qanun Drafting.

Sayed Fuad Zakaria mentions that before a Qanun comes into force, it has to pass public and academic scrutiny. A Qanun on investment, for instance, should be presented to the business sector first, says Fuad. Such scrutiny is necessary so that the process can remain open and democratic, and in the hope that with public approval, enforcement of the Qanun will be facilitated.

In relation to the enforcement of Islamic law (Syariat), one of the elements in the development of a regional policy is role of the Ulama Consultative Assembly (*Majelis Permusyawaratan Ulama -MPU*).

Article 4 of the Regional Regulation (Perda) No 3/2000 on the Establishment of the Ulama Consultative Assembly (MPU) - Organisation and Procedures for the Special Region of Aceh Province stipulates that the *MPU should provide input, consideration, guidance and advice on Syariat law aspects in regional policy decision making, both to the Regional Government and the public in general. Article 5 also stipulates that in carrying out its function as referred to in Article 4, MPU also has the task of issuing Fatwa on Law, providing considerations in regard to regional policies, especially on Islamic governance, development, community empowerment issues and economic matters.*

Article 4(a) of the Nanggroe Aceh Darussalam Provincial Regulation No. 33/2001 on Syariat Law Organisational Structure and Work Procedures stipulates that the provincial Office for Syariat Law has the following functions: (a) *to carry out duties related to*

planning and development of Qanun on Syariat law enforcement as well as to document and disseminate the results.

Burhanuddin, SH, the Chairperson of *Pansus I* (the Special Committee for Procedures for Qanun Drafting) of Aceh DPRD, adds that the draft Qanun on Procedures for Qanun Drafting, that is currently being discussed also stipulates how public can participate and provide their input to a draft Qanun. During the discussion of the draft Qanun Procedures for Qanun Drafting, a public hearing has taken place to ensure inputs to the development of the Qanun. This particular Qanun is termed the 'main Qanun', as it establishes requirements for the development of other Qanuns.

Since both of the above Laws came into force, a large number of Qanuns have been developed until 2006. Some of them are presented below.

- **2002:**

1. Qanun No.7 Year 2002 on Financial Management and Accountability
2. Qanun No.8 Year 2002 on Foreign Aid and Provincial Debt
3. Qanun No.9 Year 2002 on Capital Investment and NAD Provincial Government's Cooperation with Third Parties
4. Qanun No.10 Year 2002 on Syariat Law Justice
5. Qanun No.11 Year 2002 on Enforcement of Syariat Law, particularly on Rituals and Islamic Festivals
6. Qanun No.12 Year 2002 on General Mining and Oil and Gas
7. Qanun No.13 Year 2002 on Surface Water and Underground Water Management
8. Qanun No.14 Year 2002 on Forestry
9. Qanun No.15 Year 2002 on Forestry License
10. Qanun No.16 Year 2002 on Marine and Fishery Resource Management
11. Qanun No.17 Year 2002 on Fishery Business License
12. Qanun No.18 Year 2002 on Collection Fees for Fishery Product Businesses
13. Qanun No.19 Year 2002 on Collection Fees for Wholesale Market of Fish Auction
14. Qanun No.20 Year 2002 on Natural Resource Conservation

15. Qanun No.21 Year 2002 Natural Resource Management
16. Qanun No.22 Year 2002 on Film Business Guidance and Monitoring
17. Qanun No.23 Year 2002 on Educational Arrangements

- **2003**

1. Qanun No.2 Year 2003 on Structure, Function and Authority of Districts or Municipalities Government in NAD Province
2. Qanun No.3 Year 2003 Structure, Function and Authority of Sub-District Government in NAD province
3. Qanun No.4 Year 2003 on Mukim government in NAD province
4. Qanun No.5 Year 2003 on Mukim government in NAD province
5. Qanun No.7 Year 2003 on Fees for Motor Vehicle Change of Ownership
6. Qanun No.8 Year 2003 on Motor Vehicle Fuel Taxation
7. Qanun No.9 Year 2003 on Relationship of Work Procedures of Ulama's Consultative Assembly with the Executive, Legislative and other Bodies.
8. Qanun No.10 Year 2003 on Organisational Structure and Work Procedures of the Health Facilities of Dr. Zainoel Abidin General Hospital
9. Qanun No.11 Year 2003 on Health Services and Financing
10. Qanun No.12 Year 2003 on Alcoholic (*Khamar*) and Similar Drinks
11. Qanun No.13 Year 2003 on Gambling (*Maisir*)
12. Qanun No.14 Year 2003 on Illicit Relations between Men and Women (*Khalwat*).

- **2004**

1. Qanun No.2 Year 2004 on Election of Governor/Vice Governor, Head of District/Vice Head of District, and Mayor/Vice Mayor
2. Qanun No.7 Year 2004 on *Zakat* Management
3. Qanun No.11 Year 2004 on Functional Duties of the NAD Province Police
4. Qanun No.12 Year 2004 on Aceh Culture

- **2005**

1. Qanun No.1 Year 2005 on the Protocol and Finance of Chairperson of NAD Province House of Representatives

- **Year 2006**

1. Qanun Aceh No. 7 Year 2006 on Second Amendment to Qanun No. 2/ 2004 on Election of Governor/Vice Governor, Head of District/Vice Head of District, and Mayor/Vice Mayor in Nanggroe Aceh Darussalam Province, as amended by Qanun No. 3/2005 (the Qanun is also called the Head of Region Election/*Pilkada* Qanun). (Source: Public Relation Bureau, Regional Secretary of NAD Province)

According to Sayed Fuad Zakaria, following the passing of UUPA, there are at least 37 draft priority Qanuns to be discussed this year. They are among others:

- Procedures for Qanun Drafting (ongoing)
- Procedures for Planning, Implementation, Estimation, Accountability and Monitoring of Aceh Budget and Income (APBA)
- Procedures for Allocation of Educational Fund and Joint Development Programmes between Aceh government and Municipality/District Governments
- Utilisation of the Special Autonomy Fund
- Division of Governance Arrangements related to Syariat Law between Aceh government and District/Municipality Government
- Regional apparatus of Aceh
- Authority of Aceh Government and District/Municipality Government to establish agencies, organisations, and/or commission
- Investment Permit
- Development and Regional Planning in Aceh
- Employment
- Education
- Domestic Debt and Foreign Debt/Aid
- Delegation Arrangement of Government of Aceh on Licensing to BPKS
- Health

- Truth and Reconciliation Commission
- Women and children rights
- Construction and Management of Sea Ports and Airports
- Utilisation of Fund for Community Development in Mining Activity
- Rights to Land
- Enforcement of Political Rights and Finance of Local Political Parties
- Enforcement of Syariat Law
- *Mahkamah Syar'iyah*
- *Baitul Mal*
- Demography/population
- Addressing Social Problems
- Report of the Governor and Head of District/Mayor on Governance Arrangements
- Procedures for Involving Community in Environment Management and Sustainable Development
- Implementation of Mandatory Issues by Aceh Government
- Procedures for Task Implementation and Governor's Authority to provide award and sanction to head of district/mayor
- Nanggroe Guardian (*Wali Nanggroe*)
- Adat institution
- Procedures for Election of Mukim Head and Village Head (*Geuchik*)
- Ulama's Consultative Assembly (MPU)
- The Press and Broadcasting
- Culture and Historical Items
- Flag, Logo and Hymn of Aceh
- Permit to Construct Places of Worship
- Urban Areas.